

## ALPHABETIZED BIBLIOGRAPHY ENTRIES

"'Must Carry' Battle Returns to the Courts". News Media & the Law; January, 1993; 17(1): p. 28.

Article summarizes the debate over the Cable Television Consumer Protection and Competition Act. The Act created three-judge panels in the federal district courts to hear constitutional challenges to those provisions which require cable operators to carry broadcasters.

LEGISLATION/ JUDICIAL PARTICIPATION/ ARB: MANDATORY, COURT-ANNEXED- GENERAL.

"1992 Annual Report of the Colorado Supreme Court Grievance Committee". Colorado Lawyer; May, 1993; 22(5): pp. 935-39.

Report discusses the background and activities of the Colorado Supreme Court Grievance Committee.

SUBJ MATTER: OTHER PROF MALPRACTICE/ ETHICS: GENERAL.

Aarons, Anthony. "Banks Leading the Way Toward Arbitration (Bank of America and Wells Fargo)" (California Law Business supplement). The Los Angeles Daily Journal; January 25, 1993; 106(16): p. S28/Column 1.

Article gives brief overview of a new trend in the implementation of bank policies. New policies require customers to submit all disputes with the bank to arbitration.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING.

Abbey, Augustus and Charles L. Redel. "The Arbitration of Drug Use and Testing in the Workplace." Arbitration Journal; March, 1993; 48(1): pp. 80-85.

Authors discuss the use of arbitration in the workplace to define drug use testing requirements and procedures. Article concludes that such issues should be a mandatory subject of union bargaining.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES.

Adams, Roy J.. "Regulating Unions and Collective Bargaining: A global, historical analysis of determinants and consequences." Comparative Labor Law Journal; March 22, 1993 - Spring; 14(3): pp. 272-301.

Article focuses on state policy toward unions and collective bargaining and inquires into the conditions under which states are likely to choose suppression, toleration, or encouragement as their policy objective with respect to unions and collective bargaining. Author asserts that state policy varies according to many mutually exclusive variables and shifts in response to political and economic developments.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Adams, William A.. "Legal Limitations of the ADR Process". Public Utilities Fortnightly; January 15, 1993; 131(2): pp. 26-28.

Article analyzes the use of ADR in the resolution of disputes with the Public Utilities Commission of Ohio (PUCO). Author finds the use of ADR problematic in this context because the primary duty of public regulatory agencies is to serve the public interest. ADR conflicts with this duty when it leads to stipulations that are contrary to the public interest.

SUBJ MATTER: PUBLIC UTILITIES.

Adler, Peter S.. "State Offices of Mediation: Thoughts on the evolution of a national network (Symposium on Emerging Alternative Dispute Resolution Systems)". The Kentucky Law Journal; October, 1993 - Summer; 81(4): pp. 1013-27.

Article discusses state offices of mediation which are created by the National Institute for Dispute Resolution in Washington D.C. and speculates on the roles such offices might play in shaping a national mediation agenda. Author gives the history of ADR and identifies four broad goals and eleven specific objectives of ADR. Author discusses the need for ADR program models that add new knowledge to the field of ADR or establish institutional precedents and enumerates seven necessary characteristics of such programs. MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ORGANIZATION POLICIES AND RULES/ INST NATURE: GOV'T ENTITIES.

Adler, Sara. "Arbitration and the Americans with Disabilities Act". Saint Louis University Law Journal; June 22, 1993 - Summer; 37(4): pp. 1005-14.

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Author claims that arbitrators will inevitably play a role in resolving disputes concerning the proper interpretation to be given the Americans with Disabilities Act of 1990.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: REGULATORY.

Ager, Richard. "Alternative Dispute Resolution: The Fundamentals of Family Mediation" (book review). Family Law; December, 1993; 23: p. 715.

Article offers a favorable review of a book which describes the important techniques and strategies to be utilized in family mediation. Author's "cookbook" approach and extensive use of graphs and practical examples provides a good resource for those with an interest in mediation.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW.

Ager, Richard. "Lawyers and Mediation" (United Kingdom). Family Law; August 1993; 23: p. 493.

English author gives a brief opinion on how the rise of mediation as a profession will affect the solicitors and barristers in the United Kingdom. Author suggests that mediation groups need to broaden their interests and the range of issues which they are able to address in order to help develop a unified mediation profession.

MED: PUBLIC POLICY DIALOGUE/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L/ ROLE OF LAWYERS.

Alagappa, Muthiah. "Regionalism and the Quest for Security: ASEAN and the Cambodian conflict (Keeping the Peace: Conflict Resolution in the Twenty-First Century)". Journal of International Affairs; January, 1993-Winter; 46(2): pp. 439- 67.

Article examines the regional security organization's success when intervening in external conflicts which involve non-member states as the aggressors against member states. Author suggests that the regional security organization can effectively serve as an intermediary for conflict prevention, containment, and termination.

SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES.

Albrecht, Karl and Steve Albrecht. Added Value Negotiating: The breakthrough method for building balanced deals, Homewood, IL.: Business One Irwin, 177 pp. (1993).

Authors develop a method of negotiation which dispenses with the traditional focus of negotiation on extracting concessions. Authors propose a method which seeks balanced dealmaking by stressing the need to recognize all relevant interests and identify options that will achieve them.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER.

Allen, John L. Investors Beware: Protecting Yourself Against Stockbroker Abuse While Protecting Your Money, NY: John Wiley Pub., 225 pp. (1993).

Author examines the dangers posed to stockmarket investors and how they may best avoid them. Author concludes with a concise overview of the arbitration system common in the investment industry and how investors can use it to recover lost funds.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ SUBJ MATTER: CONSUMER/ REQUIREMENTS: CONTRACTUAL CLAUSES.

Allen, Rand L. and Craig A. Johnson. "Escaping the Maze of TINA: No way out?" (Truth in Negotiations Act). The Computer Lawyer, February, 1993; 10(2): pp. 22-30.

Article discusses compliance problems with the Truth in Negotiations Act (TINA). Article analyzes the difficulty of applying the recent decision in Honeywell Federal Systems, Inc. (HFSI) to current contracts.

SUBJ MATTER: GOV'T/ SUBJ MATTER: GOV'T CONTRACTS.

Allison, Loren K. and Eric H.J. Stalhut. "Arbitration and the ADA: A budding partnership" (Americans with Disabilities Act of 1990). Arbitration Journal, September, 1993; 48(3): pp. 53-60.

Article describes the use and desirability of compulsory arbitration when dealing with disputes in the workplace arising under the Americans with Disabilities Act.



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ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ  
MATTER:LABOR-GENERAL/ SUBJ MATTER: LABOR-  
DISCRIMINATION.

Alternative Dispute Resolution in Technology Disputes: Model ADR Procedures. New York: Center for Public Resources; (1993).

Book discusses protocol and model agreements specifically designed for use in modern technology disputes. The methods and protocol are important because ninety-six percent of technology disputes are settled out of court. Thus, a form of de facto arbitration is already in place.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,  
COURT-ANNEXED- GENERAL / SUBJ MATTER: SCIENCE &  
TECHNOLOGY.

**Anderson, Andrew D.M..** "An Analysis of the Proposed Subsidies Code Procedures in the 'Dunkel Text' of the GATT Uruguay Round: The Canadian exporter's case". Journal of World Trade (Law-Economics-Public Policy); June, 1993; 27(3): pp. 71-100.

Author examines the benefits and burdens countries and their corporations may experience by adopting the proposed GATT Subsidies Code provisions in the "Dunkel Text" of the Uruguay Round of multilateral negotiations.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST  
NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L.

**Anderson, Robert A..** "Construction Arbitration: The answer or ambush?". Advocate (Idaho); August, 1993; 36(8): pp. 26-28.

Article reviews problems associated with construction arbitration. Author suggests mediation as a precursor to arbitration and suggests implementing procedural safeguards to ensure adequate discovery.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSTRUCTION.

**Appel, Mark E..** "Partnering: New dimensions in dispute prevention and resolution". Arbitration Journal; June, 1993; 48(2): pp. 47-51.

Article recommends the increased use of "partnering." Partnering focuses on dispute prevention rather than dispute resolution, especially in international ventures. Partnering is particularly beneficial to international

ventures because the contracting parties' already divergent interests are often further confused by cultural and communication barriers.

SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: INT'L/ 3RD  
PARTY: NEUTRALITY/ DISPUTE PREVENTION.

"Arbitration" (The Fourth Circuit Review). Washington and Lee Law Review; January 1993 - Winter; 50(1): pp. 243-49.

Comment on recent cases in the Fourth Circuit. The U.S. Court of Appeals in Richmond, Fredericksburg & Potomac Railroad v. Transportation Communications International Union, held that a court should give deference to an arbitral's final award and limit its review of labor arbitration awards and decisions. The court in Summer Rain v. Downing Co./Publishers, Inc., addressed section 3 of the Arbitration Act and the division of "arbitrable" and "non- arbitrable" issues irrespective of the claims involved. The court in Summer Rain relied on the Supreme Court's decision in Dean Witter Reynolds, Inc. v. Byrd (1985).

ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ TYPE OF  
SOURCE: CASE/ SUBJ MATTER: LABOR-GENERAL STUDY/  
RESEARCH REPORT/ JUDICIAL PARTICIPATION.

"Arbitration - Consolidation of Separate Proceedings - Second Circuit Holds That Consolidation is Governed by the Terms of the Parties' Agreements". Harvard Law Review; December, 1993; 107(2): pp. 499-504.

Note discusses the Second Circuit Court of Appeals decision in Government of the United Kingdom v. Boeing Co. In Boeing Co., the court substantially overturned a prior decision allowing federal courts to consolidate arbitration proceedings without party consent. Note points out the differences that remain between the Second Circuit and the other circuit courts with respect to this issue.

JUDICIAL PARTICIPATION.

"Arbitrator Upholds Bar Budget: 162 Claims for Additional Reductions in Membership Fees Rejected" (California State Bar Report). California Lawyer; June, 1993; 13(6): p. 78.

An independent arbitrator rejected a request made by 162 lawyers for an additional reduction in their 1992 State Bar of California compulsory membership fees. The arbitrator's ruling represents the second consecutive year in which an independent arbitrator has validated the California State Bar's calculation of expenses process.

ARB: BINDING ARB- GENERAL.

Arkin, Harry L.. "Pre-arbitration Dispute Resolution: What is it, where is it, and why?". International Business Lawyer; September, 1993; 21(8): pp. 373-77.

Author suggests pre-arbitral procedures as a means of achieving an immediate determination without the delays involved in invoking ordinary arbitration. Author discusses various pre-arbitration dispute resolution procedures as presented at the 1989 conference, "New Concepts in the Resolution of Disputes in International Construction Contracts".

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ PROVISIONAL REMEDIES.

Arnoff, Norman B. and Elizabeth Henry Klampert. "Use of Alternative Methods to Resolve Fee Disputes". New York Law Journal; February 16, 1993; 209(29): p. 3.

Article discusses the benefits of using ADR in attorney-client fee disputes. Benefits include expediency, lack of adverse publicity, fostering a good public image for lawyers, and a decrease in counterclaims against attorneys for malpractice. ADR would also serve to preserve the integrity of the attorney-client relationship.

SUBJ MATTER: OTHER PROF MALPRACTICE.

Aronson, Adam L.. "From "Cooperator's Loss" to Cooperative Gain: Negotiating greenhouse gas abatement". Yale Law Journal; June, 1993; 102(8): pp. 2143-74.

Article describes problems associated with international greenhouse gas abatement. Author analyzes the problems through the use of the game theory approach. Author advocates the use of an international, tradeable emissions permit system. Such a system would serve to promote efficiency and provide incentives for international cooperation.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/  
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

Arthur, Jim, Frank Gaffney, Elaine Hallmark, and Alice Shorett. "Public-policy Mediation". Washington State Bar News; April, 1993; 47(4): pp. 29-30.

Article provides a general discussion of how public policy mediation in the Northwest grew out of labor-management disputes. Authors offer specific examples of instances in which mediation has been used to resolve public policy issues. Authors recognize the difficulty of implementing the terms of mediation agreements. Five conditions are listed as necessary to persuade disputing parties to consider mediation as a method for resolving their conflict.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: ENVIRONMENT/ MED: NEGOTIATED RULE-MAKING/ MED: OBTAINING AGREEMENT TO USE.

Atkinson, Carolyn. "A Change in Policy: Litton and the court's disfavoring of arbitrability of post-expiration grievances". Capital University Law Review; January, 1993; 22(1): pp. 207-36.

Comprehensive review of the Supreme Court's policy towards the arbitrability of post-expiration labor grievances before and after the Litton decision. Article addresses the history of the enforceability of arbitration clauses, prior court cases on the issue, and the impact of Litton on public policy.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC POLICY.

Augenblick, Mark and Delissa A. Ridgway. "Dispute Resolution in World Financial Institutions". Journal of International Arbitration; March, 1993; 10(1): pp. 73-84.

Given the dramatic increase in the number and size of international commercial transactions, authors contend the availability of appropriate dispute resolution mechanisms is a critical factor in the expansion of international commerce. Authors offer a basic overview of the purpose and mission of world financial institutions and a brief summary of the dispute resolution processes used by them.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

## 1993 BIBLIOGRAPHY

**Austin, Raymond D.** "Freedom, Responsibility, and Duty: ADR and the Navajo Peacemaker Court". Judges Journal; March 22, 1993 - Spring; 32(2): pp. 8-13.

Article examines the traditional legal concepts of the Navajo Nation that have been incorporated into modern methods of dispute resolution by the courts of the Navajo Nation. Author asserts that the Navajo system has proven to be extremely adaptable to the culture's current and historical needs and that it will adapt well to the future as well. Author asserts that the Navajo system provides a model for the expansion of the ADR movement.

INST NATURE: JUSTICE SYSTEM-OTHER/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL.

**Avanessian, Aida.** Iran-United States Claims Tribunal in Action, London: Graham & Trotman, 325 pp. (1993). Book examines the creation and performance of the Iran-United States Claims Tribunal established in 1981 to resolve commercial disputes arising from the disruption caused by the 1979 Iranian revolution. Author contends the Tribunal is "the largest and most ambitious arbitration ever undertaken" and that it will leave an indelible mark on international law and arbitration. The bulk of the book addresses the subject-matter jurisdiction and procedures utilized by the Tribunal. The remainder of the book concerns the awards given by the Tribunal and their enforcement.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

**Avery, Diane.** "Gender Stereotypes, Picket Line Violence, and the 'Law' of Strike Misconduct Cases". The Ohio State Journal on Dispute Resolution; 1993; 8(2): pp. 251-78.

Author reviews National Labor Relations Board decisions since 1947 dealing with employee strike misconduct as a grounds for the denial of reinstatement. Article investigates the role gender played in these cases within the context of feminist theory and from a sociological perspective.

ARB: BINDING ARB- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

**Ayayo, Herman P.** "'Settle Tomorrow's Tax Problems Today,' IRS Officials Advise". Tax Notes; November 1, 1993; 61(5): p. 530.

Article outlines two ADR methods now being considered by the IRS. These methods are referred to as the "accelerated issue resolution procedure" and the "pre-filing determination letter" process.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX.

**Bachle, Anne F. and Robert J. Ver Heulen.** "An Appeal for ADR - Can It Work on the Appellate Level?". Michigan Bar Journal; October, 1993; 72(10): pp. 1021-23.

Article explores the use of ADR on the appellate level and the reaction of attorneys to its use. The use of ADR has met with some skepticism, but overall ADR on the appellate level seems to be successful. Article suggests ADR would be more successful at the appellate level if an examination of all available research were undertaken before the implementation of ADR programs.

COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ ARB: JUDICIAL REVIEW.

**Baker, Chris.** "Sexual Harassment v. Labor Arbitration: Does reinstating sexual harassers violate public policy?". University of Cincinnati Law Review; March 22, 1993-Spring; 61(4): pp. 1361-89.

Article addresses the issue of whether public policy precludes the enforcement of arbitral awards reinstating co-workers who are guilty of egregious sexual harassment. Author considers the merits of both sides and concludes that the courts should enforce, rather than vacate, the awards.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Baker, Donald L. and Mark R. Stabile.** "Arbitration of Antitrust Claims: Opportunities and hazards for corporate counsel". Business Lawyer; January, 1993; 48(2): pp. 395-436.

Author chronicles the decisions leading up to the approval of antitrust arbitration by the U.S. Supreme Court. Article suggests the Supreme Court's decision will provide potential opportunities and hazards for the structuring and administration of ongoing commercial relationships. Authors emphasize the need for effective planning when drafting arbitration clauses applicable to antitrust violations.

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ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: ANTITRUST.

**Ball, Markham.** "Just Do It - Drafting the Arbitration Clause in an International Agreement". Journal of International Arbitration; December, 1993; 10(4): pp. 29-44.

Author emphasizes the need to respect party autonomy when drafting arbitration clauses. Article identifies questions that must be answered in constructing an international arbitration clause and asserts parties should have control over the choice of procedures and arbitrators.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS.

**Barenberg, Mark.** "The Political Economy of the Wagner Act: Power, Symbol, and Workplace Cooperation". Harvard Law Review; January, 1993; 106(7): pp. 1379-496.

Article reexamines the political and intellectual origins of the Wagner Act. Author attempts to reconstruct the vision of political economy, ideology, and law that impelled Robert Wagner's crusade to build a cooperative, social democracy.

MED: RELATED PROCESSES-GENERAL/ COMPARISONS: HISTORICAL.

**Barker, Beverly.** "Idaho Mediation Association Adopts Standards & Certification Process". Advocate (Idaho); August, 1993; 36(8): pp. 12.

Author claims the manner by which mediator competency should be judged is the subject of vigorous debate. Article examines various means of certification: forty hours of training in mediation skills, a mentoring process, and continuing education efforts. These measures have been taken in order to maintain high quality mediation services.

ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION.

**Barkoff, Rupert M..** "Joint Negotiation with the Manufacturer/Franchisor". Antitrust Law Journal; January, 1993; 61(2): pp. 417-24.

Article discusses McAlpine v. Aamco Automatic Transmissions and identifies negotiation concerns with respect to antitrust violations. Author then suggests some basic guidelines to avoid antitrust disputes in franchisee-franchisor negotiations.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: ANTITRUST/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

**Bechelet, John.** "Dispute resolution" (United Kingdom). Solicitors Journal; February 5, 1993; 137(4): pp. 104-05.

Author explores the impact the British tradition of ordering defendants to pay costs will have on the likelihood of settlements.

SETTLEMENT: PRESSURES TO SETTLE/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L.

**Becker, Frank T.** "The Indiana Rule for Alternative Dispute Resolution - A Model for Kentucky?". Kentucky Bench and Bar; September 22, 1993; 57(4): pp. 16-19.

Author examines the Indiana rule on ADR which is scheduled to be adopted by the Kentucky bar. The rule includes methods for mediator selection, court participation, written ADR provisions, mini-trials, and summary jury trials.

MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ NON-BINDING RECOMMENDATION PROC- MINI- TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ COURT REFORM/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS.

**Bedikan, Mary A. and Jerome D. Hill.** "The Ultimate Power of Persuasion: Using the mock trial to enhance litigation strategy" (includes bibliography compiled by the American Arbitration Association). Michigan Bar Journal; October, 1993; 72(10): pp. 1046-52.

Article describes how a recent Michigan mock trial was designed and utilized to fine-tune trial strategy. The presentation of evidence was restructured to maximize the likelihood of a favorable jury verdict. Authors explore settlement considerations and different forms of ADR.

NON-BINDING RECOMMENDATION PROC- GENERAL/ TYPE OF SOURCE: BIBLIOGRAPHY.



**Bedikian, Mary A.** "Transforming At-will Employment Disputes Into Wrongful Discharge Claims: Fertile ground for ADR". Journal of Dispute Resolution; March 22, 1993 - Spring; 1993(1): pp. 113-51.

Article reviews historical evolution of at-will employment and examines common law wrongful dismissal. Author describes the recent trend toward arbitrating wrongful discharge disputes and suggests arbitration provides a practical, sound forum for the resolution of employment claims. Article discusses the constitutional and pragmatic barriers to full-scale reform in favor of the use of arbitration.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON- UNIONS).

**Belak, Anthony G.** "ADR in the Federal Sector". Kentucky Bench and Bar; September 22, 1993; 57(4): pp. 28-30.

Author examines several federal acts and their effect on ADR at the federal level. The acts examined include: Civil Justice Reform Act of 1990, Administrative Dispute Resolution Act, Negotiated Rule Making Act of 1989, and Executive Order 12778 (facilitating just and efficient resolution of civil claims involving the United States). Author reveals the results of a recent survey of litigants which shows litigation is considered too burdensome and expensive by many.

MED: RELATED PROCESSES-GENERAL/ MED: NEGOTIATED RULE-MAKING/ COURT REFORM.

**Bentil, Kodwo J.** "Arbitration in Construction or Building Works Disputes and the Removal of an Arbitrator for Misconduct Under Anglo-Australian Laws". The International Construction Law Review; January, 1993; 10(1): pp. 88-121.

Article discusses mechanisms that should be employed to remove arbitrators for misconduct in construction and building work disputes. Author examines the legal provisions and judicial decisions which have dealt with requests for arbitrator removal. Author asserts that the dismissal of commercial arbitrators in England and Australia has been limited by the reluctance to make arbitrator misconduct a statutory violation.

SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: INT'L/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR.

**Bereskin, Daniel R.** "A Comparison of the Trademark Provisions of NAFTA and TRIPS" (North American Free Trade Agreement; Trade-

Related Aspects of Intellectual Property Rights - draft agreement of GATT negotiations). Trademark Reporter; January, 1993; 831(1): pp. 1-17.

Author offers a detailed analysis of the trademark provisions in the NAFTA and TRIP agreements and identifies areas for change in the trademark law and practice of member countries. Author discusses the procedures for enforcement of trademark rights and available remedies for violations found under either agreement.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/  
SUBJ MATTER: INT'L.

**Berger, Klaus Peter.** "The International Arbitrators' Application of Precedents". Journal of International Arbitration; March 22, 1993; 9(4): pp. 5-22.

Article reviews precedents and suggests a methodology for applying precedent in international arbitrations.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS.

**Berger, Klaus Peter.** International Economic Arbitration, Boston: Kluwer Law and Taxation Publishers, 939 pp. (1993).

The author analyzes modern international economic arbitration law in detail. Book provides tables of arbitral awards, an extensive bibliography, and an annex with reprints of relevant statutes and rules.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BIBLIOGRAPHY.

**Berger, Ralph S.** "AIDS in the Workplace: Judicial and arbitral responses." Arbitration Journal; March, 1993; 48(1): pp. 20-23.

Author discusses the increasing frequency with which arbitrators must address the rights of employers, unions, HIV-infected employees, and co-workers and urges arbitrators to make a concerted effort to remain educated on the latest AIDS-related medical and legislative issues.

ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR.

**Bergmann, David C.** "ADR: Resolution or complication?" (alternative dispute resolution by the Public Utilities Commission of Ohio on the Zimmer nuclear plant conversion). Public Utilities Fortnightly; January 15, 1993; 131(2): pp. 20-22.

## 1993 BIBLIOGRAPHY

Author questions the appropriateness of ADR in major rate cases, citing the following pitfalls: lack of voluntariness and communication/participation by all parties involved; limited resources (since no party can afford to neglect the litigative side because negotiations may fail); conflicts with statutory processes and requirements; and lack of mediator expertise in the area of public utility law.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: PUBLIC UTILITIES/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS.

**Berman, Richard M..** "Rate Regulation: Cable TV is ready for ADR". Arbitration Journal; June, 1993; 48(2): pp. 70-71.

Author argues that substituting arbitration or other forms of ADR for local administrative rate-setting mechanisms will accomplish the purpose of the 1992 Cable Television Consumer Protection and Competition Act: reduce the "administrative burden" on all parties associated with the cable industry; including consumers, owners, and the FCC.

ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: REGULATORY/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION.

**Bernstein, Lisa.** "Understanding the Limits of Court-connected ADR: A critique of federal court-annexed arbitration programs". University of Pennsylvania Law Review; April, 1993; 141(6): pp. 2169-259.

Article offers comprehensive, in-depth analysis of mandatory, non-binding court-annexed arbitration programs. Author asserts that court-annexed arbitration programs will not succeed in increasing access to justice but, rather, may decrease access to poorer litigants. Author states that the programs were originally designed to help those poorer litigants who may now face decreased access to the programs.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY, COURT- ANNEXED- FINANCIAL DISINCENTIVES/ SUBJ MATTER: GOV'T.

**Bernstein, Robert H. and Jonathan Ramsfelder.** "ADR Looks Good After Gilmer". New Jersey Law Journal; November 15, 1993; 135(11): p. S7.

Authors urge employers to take advantage of the possibility of arbitrating statutory-based employment disputes in the wake of Gilmer v. Interstate/Johnson Corp. and other pro-ADR case law and statutes. Authors

discuss the state of the law regarding arbitration and list the benefits it offers employers. A checklist of legal and practical factors for employers to consider is also included.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ  
MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER:  
EMPLOYMENT (NON- UNIONS)/ ECONOMIC ADVANTAGES OF  
ADR.

**Bersani, Matthew D..** "The Enforcement of Arbitration Awards in China".  
Journal of International Arbitration; June, 1993; 10(2): pp. 47-53.

Article describes the "virtual impossibility" of enforcing arbitration awards in China. Author cites protective local courts, insufficient funding, and the lack of coordination between China's arbitration commission and the courts as the major obstacles to the enforcement of arbitration awards in China.

ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB:  
JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ ARB:  
OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ  
MATTER: INT'L.

**Bethel, Terry A..** "Wrongful Discharge: Litigation or arbitration?".  
Journal of Dispute Resolution; September 22, 1993 - Fall; 1993(2):  
pp. 289-304.

Author examines the pros and cons of using arbitration in wrongful discharge cases and suggests that, while arbitration has some advantages over litigation, it is not the "paradise" its supporters might believe it to be.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:  
MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/  
ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND  
QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: EMPLOYMENT  
(NON-UNIONS)/ ECONOMIC ADVANTAGES OF ADR/ SELECTION  
OF APPROPRIATE PROCESS.

**Beutelschies, Mark, Paul Larsen and Susan Wiens.** "A Primer: ADR techniques used in Superfund cases". Barrister; January, 1993 (Winter); 19(4): 35-38.

Article outlines various ADR techniques and their beneficial use in resolving complex legal and factual issues arising under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Article discusses ADR methods such as mediation, arbitration, mini trials, and summary jury trials and how these methods work under EPA guidelines.

## 1993 BIBLIOGRAPHY

MED: RELATED PROCESSES-GENERAL/ NON-BINDING  
RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING  
RECOMMENDATION PROC-SUMMARY JURY TRIAL/ INST  
NATURE: GENERAL/ SUBJ MATTER: ENVIRONMENT/ SUBJ  
MATTER: GOV'T.

**Bevan, Alex.** "ADR: The story since 1989" (Scotland). Scots Law Times; March 12, 1993; (10): pp. 80-82.

Article provides a basic guide through the mediation process utilized in the United Kingdom (U.K.). Author describes the mediation process beginning with how to choose a mediator and concludes by offering the average final cost of the mediation process in the U.K..

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: INT'L/  
SELECTION OF APPROPRIATE PROCESS.

**Bevan, Alexander.** "Alternative Dispute Resolution" (book review). Australian Law Journal; March, 1993; 67(3): p. 236.

Review of a practitioner's comprehensive guide to alternative dispute resolution concludes that it is thorough and functional.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:  
GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: REP OF A  
CLIENT DURING PROCESS/ ARB: MANDATORY, COURT-  
ANNEXED- GENERAL/ ARB: CLIENT REP/ TYPE OF SOURCE:  
BOOK REVIEW.

**Blackford, Jason C.** "Arbitration Provisions for Business Contracts". Arbitration Journal; September, 1993; 48(3): pp. 47-52.

Article outlines issues that should be considered when drafting an arbitration provision for a business transaction.

ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL.

**Blum, Albert A.** "Expert Witnesses in Arbitration". Labor Law Journal; September, 1993; Vol. 44(9): pp. 587-88.

Author questions the usefulness of expert witnesses in arbitration and suggests using arbitrator-appointed experts.

ARB: BINDING ARB- GENERAL.

**Bockstiegel, Karl-Heinz.** "The Effectiveness of Inter-state Arbitration in Political Turmoil" (particularly in connection with the disappearance of states, the emergence of new states, and the modification of borders). Journal of International Arbitration; March, 1993; 10(1): pp. 43-50.

Article uses the Iran-US claims tribunal to explore the feasibility of inter-state arbitration in those states experiencing political turmoil.

SUBJ MATTER: INT'L/ SELECTION OF APPROPRIATE PROCESS.

**Bode, H. Christian.** "Jump Starting Stalled Settlement Negotiations With the Advisory Jury". Arizona Attorney; February 1993; 29(6): pp. 15-17.

Article presents a sample personal injury case to exemplify the advisory jury process and convey its advantages, disadvantages, and proper application.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ/ NEG: EVAL OF OPTIONS AND OFFERS/ SETTLEMENT: PRESSURES TO SETTLE.

**Bognanno, Mario F. and Kathryn J. Ready.** The North American Free Trade Agreement: Labor, Industry and Government Perspectives, Westport, Conn.: Praeger Pub., 255 pp. (1993).

Book is a compilation of works from different contributors. It allows the reader to be exposed to various perspectives regarding the North American Free Trade Agreement (NAFTA). Authors explore aspects of NAFTA ranging from its creation to its impact on labor and industry.

SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL.

**Bolinski, Dorissa and David Singer.** "Why Are So Few Women In The ADR Field?". Arbitration Journal; September, 1993; 48(3): pp. 61-65.

Article discusses why there are so few women in the field of ADR. While admitting that women's representation is gradually increasing, author attempts to provide reasons why the rate of growth in female participation is slow. Author also provides ways for women to make their presence known within the field of ADR.

SUBJ MATTER: LABOR-DISCRIMINATION.

**Bompey, Stuart H. and Michael P..** "Is There a Better Way? Compulsory Arbitration of Employment Discrimination Claims After Gilmer" (Gilmer v.

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Interstate/Johnson Lane Corp.). Employee Relations Law Journal; December 22, 1993 - Winter; 19(3): pp. 197-216.

Article surveys developments in the arbitrability of ADEA claims and suggests that while employers may have increased leverage to compel arbitration, it may not be advantageous to do so in all cases.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: MANDATORY, COURT- ANNEXED- FINANCIAL DISINCENTIVES/ ARB: CLIENT REP/ ARB: PREPARATION/ SUBJ MATTER: CIVIL RIGHTS.

**Boskey, James B.** The American Arbitration Association Insurance ADR Manual. Colorado Springs, Co.: Shepard McGraw-Hill; 508 pp. (1993).

Book discusses arbitration mechanisms used in claims handling by the courts and through private ADR. Book discusses the use of ADR in all types of insurance disputes including: title insurance, worker's compensation, environmental, re-insurance, professional negligence, and uninsured and underinsured motorists. Book focuses on arbitration, mediation, and negotiation as well as various forms of arbitration. Book also includes an overview of arbitration clauses used in insurance contracts.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INSURANCE.

**Bossert, Rex.** "Settlement Ends Fight Over Computer Patents" (by Texas Instruments Inc. and Tandy Corp.). The Los Angeles Daily Journal; January 12, 1993; 106(7): p. 2.

Article briefly describes the settlement reached in Grid Systems Corp. v. Texas Instruments Inc.. The case involved a challenge to the validity of certain computer patents.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SCIENCE & TECHNOLOGY.

**Boulle, Laurence.** "Testing the Mettle - Queensland's First Settlement Week". Australian Dispute Resolution Journal; January, 1993; 4(1): pp. 5-15.

Article deals with Queensland's first Settlement Week which took place January 20-24, 1992 and was initiated by the Bar Association and Law Society of Australia. Author attempts to clarify some aspects of the mediation process and the ADR movement as a whole by examining

Settlement Week in detail, gauging its successes and failures, and making suggestions for improving future Settlement Weeks.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

**Brady, Michael J. and Peter R. Cubanske.** "The Judicial Arbitration System: Its promise and its shortcomings" (California). For the Defense; August, 1993; 35(8): pp. 29-31.

Article discusses problems arising from judicial arbitration in medical malpractice cases. Author asserts that the arbitration system has a potentially beneficial use in this context, but has been used improperly administered. KELLI

ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: MEDICAL MALPRACTICE/ QUALITY CONTROL.

**Brady, Teresa.** "The Legal Issues Surrounding Religious Discrimination in the Workplace". Labor Law Journal; April 1993; 44(4): pp. 246-51.

Article discusses issues which arise as a result of religious differences in the workplace. Author discusses reasonable accommodations that employers can make to comply with anti-discrimination law and retain employees. Author recommends that employers implement internal grievance systems as an efficient means of conflict resolution.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ ECONOMIC ADVANTAGES OF ADR.

**Brand, Ronald A..** "Competing Philosophies of GATT Dispute Resolution in the Oilseeds Case and the Draft Understanding on Dispute Settlement". Journal of World Trade (Law-Economics-Public Policy); December, 1993; 27(6): pp. 117-44.

Author examines how the GATT dispute settlement system and the two decisions in the Oilseeds case provide examples of the evolution of international dispute resolution. Article compares the traditional United States and European community perspectives on GATT dispute settlement mechanisms.



## 1993 BIBLIOGRAPHY

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST  
NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L.

**Brand, Ronald A.** "International Trade Law and the Arbitration of Administrative Law Matters: Farrel Corp. v. U.S. International Trade Commission". Columbia Journal of Transnational Law; January 1993 - Winter; 31(1): pp. 181-203.

Article examines Farrel Corp. v. United States International Trade Commission, 949 F.2d 1147 (Fed. Cir. 1991), against the background of U.S. law regarding the enforcement of arbitration agreements. Author discusses the negative effects of Farrel on trade law issues, including the General Agreement on Trade and Tariffs (GATT).

ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST  
NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ COMPLIANCE  
ISSUES.

**Brand, Ronald A. and Harry M. Flechtner.** "Arbitration and Contract Formation in International Trade: First Interpretations of the U.N. Sales Convention" (Convention on Contracts for the International Sale of Goods). Journal of Law and Commerce; March 22, 1993-Spring; 12(2): pp. 239-60. Article focuses on the first U.S. case to pay significant attention to the United Nations Convention on Contracts for the International Sale of Goods. Authors conclude that an informed judicial understanding of the Convention is crucial and explains several ways in which U.S. courts should approach interpretations of the convention.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L.

**Braufman, Sid.** "Coping with Arbitrability: Private industry v. academia". Arbitration Journal; March, 1993; 48(1): pp. 42-53.

Author discusses the fact that, even though the typical grievance and arbitration procedures in academia were originally patterned after corresponding industry procedures, the two are now very different. He demonstrates how arbitration in academia is more complex, time consuming, and costly than arbitration in industry.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ  
MATTER: LABOR-GENERAL.

**Breger, Marshall J.** "Labor Department Leads Way on ADR". The National Law Journal; February 15, 1993; 15(24): p. 15.

Article discusses the Department of Labor's pilot project aimed at identifying the types of labor disputes in which the use of ADR would be beneficial. Department of Labor determined that ADR, specifically mediation, may be a "promising tool" in labor disputes. Author advocates the expanded use of ADR techniques by the Department following the promising results of the pilot project.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: LABOR-GENERAL.

**Breslin, Philip H. and Perry A. Zirkel.** "Arbitrator Impartiality and the Burden of Proof" (response to David A. Dilts and Clarence R. Dietsch, Arbitration Journal, vol. 44, p. 42). Labor Law Journal; June, 1993; 44(6): pp. 381-84.

Article re-analyzes the principal sources of data used in an article previously published in the "Arbitration Journal." Author concludes that the principal sources of data were not statistically valid and that they failed to indicate a sufficiently significant difference in the interpretation of grievance arbitrator impartiality.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Brightman, Richard J.** "Bankruptcy - Good Cause Rejection Under 11 U.S.C. 1113 - Union Rejection of Modifications to Collective Bargaining Agreement" (Survey of Recent Developments in Bankruptcy Law). Seton Hall Law Review; September 22, 1993 - Fall; 23(4): pp. 1919-24.

Article analyzes the decision of In re Maxwell Newspapers. The Second Circuit Court of Appeals held that a collective bargaining agreement can be discharged in bankruptcy proceedings when parties do not bargain in good faith.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/  
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ JUDICIAL PARTICIPATION.

**Brinig, Margaret F. and Michael V. Alexeev.** "Trading at Divorce: Preferences, Legal Rules and Transaction Costs. Ohio State Journal on Dispute Resolution; March 22, 1993 - Spring; 8(2): pp. 279-97.

Article examines the increasing usefulness of divorce negotiations as costs increase for court settlements and legal rules continue to depart from the

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parties desired outcomes. Authors illustrate their theory by using empirical studies of divorce cases in Virginia and Wisconsin.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: FAMILY (DOMESTIC REL).

**Brown, Corie.** "That's Entertainment: Entertainment Lawyers' Conflict of Interests in Negotiating Deals Between Movie Stars and Movie Makers". California Lawyer; June, 1993; 13(6): pp. 38-45.

Article reveals the prevalence of entertainment lawyers' conflicts of interest in negotiating deals between movie stars and movie makers. Author emphasizes the effects such conflicts have on lawyers and clients.

INST NATURE: PRIVATE, PROFIT-MAKING/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL

**Brown, Henry J. and Arthur L. Marriott.** ADR Principles and Practice, London: Sweet & Maxwell, 457 pp. (1993).

Brown applies basic principles of ADR (mediation, negotiation, arbitration) to litigation, social issues, and labor disputes that are unique to the United Kingdom. Book is a comprehensive, yet basic, outline that focuses on ADR and the legal system in the United Kingdom.

SUBJ MATTER: INT'L/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE / ARB: MANDATORY, COURT-ANNEXED- GENERAL.

**Brown, J.E..** "ADR Procedures: Texas Legislature takes up ADR procedures" (Texas: 1993 Legislative Digest), Texas Bar Journal; October, 1993; 56(9): pp. 884-87.

Article examines the movement in Texas to pass laws that encourage the use of ADR procedures. Author examines a variety of legal areas in which the use of ADR procedures has been beneficial.

SUBJ MATTER: CRIMINAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: FARM/ LEGISLATION.

**Brown, Jennifer Gerarda and Ian Ayres.** "Economic Rationales for Mediation. Virginia Law Review; November, 1993; 80(2): pp. 323-402.

Article contends that mediations which are facilitated by neutral third-parties have received less attention in the literature than arbitration. Authors attempt to identify ways in which mediation could also increase the efficiency of bargaining from an economic perspective.

MED: RELATED PROCESSES-GENERAL/ 3RD PARTY: NEUTRALITY/  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC.

**Brown, Michael E.** Ethnic Conflict and International Security; Princeton: Princeton University Press, 276 pp. (1993).

A collection of essays on ethnic conflict. One essay addresses the issue of what steps the international community can and should take once fighting begins between ethnic communities within a state and also explores preventative measures that can be taken to avoid ethnic conflict. The book discusses the concepts of "hard" mediation (efforts to find specific solutions to specific disputes) and "soft" mediation (the broader question of what outsiders can legitimately and usefully do to ease tensions among ethnic groups in the same state).

SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

**Bryson, Cheryl Blackwell and Anurag Gulati.** "The Courts and the Legislature Begin to Adopt ADR Methods to Deal with the Growing Number of Employment Discrimination Claims" (Symposium: Major Issues for Collective Bargaining in the Nineties). Northern Illinois University Law Review; March 22, 1993-Spring; 13(2): pp. 221-46.

Article discusses ADR as a possible solution to the problem of overburdened court caseloads and the general dissatisfaction with litigation. The historical role of ADR in collective bargaining and the Supreme Court's endorsement of ADR is explored. Authors examine the judicial enforcement of agreements to arbitrate employment discrimination cases.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY  
DIALOGUE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/  
MED: OBTAINING AGREEMENT TO USE/ ARB: BINDING ARB-  
GENERAL/ REQUIREMENTS: MANDATE TO USE/ SUBJ MATTER:  
PUBLIC POLICY/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ  
MATTER: LABOR- GENERAL.

**Buckley, Jared P.** "Medical Malpractice Arbitration, Time for a Change?"; Michigan Bar Journal; November, 1993; 72(11): p. 1163.

Article examines the lack of participation in medical malpractice arbitration. Author claims one reason for the lack of participation is the failure to solve

the dispute regarding whether or not doctors should sit on medical malpractice arbitration panels. Article includes a chart demonstrating the infrequency of medical malpractice arbitration in Michigan and proposes that other methods of ADR be explored.

ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ 3RD PARTY: NEUTRALITY/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS.

**Burdell, Charles.** "The Role of the Advocate in Mediation". Washington State Bar News; April, 1993; 47(3): pp. 44-45.

Article reveals mediation is the most popular form of ADR with practicing lawyers and gives reasons for its popularity. Author identifies a number of roles which a lawyer may play in the mediation process.

MED: RELATED PROCESSES-GENERAL/MED: RELATED PURPOSES-THEORY AND STRATEGIES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ MED: COUNSELING/MED: REP OF A CLIENT DURING PROCESS.

**Burgess, Paul L. and Daniel R. Marburger.** "Do Negotiated and Arbitrated Salaries Differ Under Final-Offer Arbitration?". Industrial and Labor Relations Review; April, 1993; 46(3): pp. 548-59.

Author investigates the difference between negotiated and arbitrated settlements under final-offer arbitration in major league baseball. Article concludes that generally arbitration awards won by players are higher than negotiated settlements. Arbitration awards won by management are significantly lower.

ARB: FINAL OFFER ARB/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ MED: RELATED PURPOSES- THEORY AND STRATEGIES.

**Burkhart, Lori A..** "Power Interests Urge Creation of Transmission Groups". Public Utilities Fortnightly; March 1, 1993; 131(5): p. 37.

Article briefly summarizes and evaluates a proposal made by five large power energy organizations who are urging the Federal Energy Regulatory Commission (FERC) to change utility rules. The changes would permit the development of regional transmission groups (RTGs) that would provide for greater access to transmission. Proposal provides for a fair dispute resolution process to be implemented.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC UTILITIES.

**Bush, John E.** "Colorado Judicial Institute Alternative Dispute Resolution Project". Colorado Lawyer; January, 1993; 22(1): pp. 19-20.

Article discusses how ADR has helped the Colorado Judicial Institute (CJI) reach its goal of achieving excellence within Colorado's judicial system. Author also discusses CJI's ADR Project, the Advisory Committee's recommendations for improving it, and Colorado's progress in integrating ADR into its court systems and maximizing the dispute resolution options available within the system.

INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ JUDICIAL PARTICIPATION.

**Bush, John E.** "Current Events in ADR in Colorado". Colorado Lawyer; November, 1993; 22(11): pp. 2377-79.

Article states Colorado is becoming known as a leader in the development and implementation of alternate dispute resolution programs. Article details the projects and programs of various bar associations, judicial organizations, and other law-related entities. Article was prepared by the Colorado Bar Association Alternative Dispute Resolution Committee.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ INST NATURE: PRIVATE, PROFIT-MAKING/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ TEACHING.

**Butler, Cynthia Jeanne.** "The Propriety of Judicially Granted Provisional Relief in Pending Arbitration Cases". Ohio State Journal on Dispute Resolution; September 22, 1993-Fall; 9(1): pp. 145-59.

Author proposes several arguments in favor of the adoption of a standard approach to the judicial role in providing provisional relief. Article examines the issue in light of the Federal Arbitration Act (FAA) and various lower court decisions. Author concludes that relief should be allowed only when so provided in the parties' agreement.

ARB: BINDING ARB- GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ JUDICIAL INST NATURE: JUSTICE SYSTEM- GENERALPARTICIPATION/ PROVISIONAL REMEDIES

**Butler, James R., Jr.** "Arbitration as a Means of Enhancing Consumer Relations". Banking Law Journal; November, 1993; 110(6): pp. 527-41.

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Article examines the increased use of arbitration by the banking industry as a cost-effective method of resolving disputes. Author advises banks on the best method of arbitrator selection and the best way in which to implement an arbitration program.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL.

**Bynum, Stanley D. and J. David Pugh.** "Enforcing Arbitration Agreements in Alabama: A double standard dilemma". The Alabama Lawyer; January, 1993; 54(1): pp. 38-43.

Article discusses the difficulty of enforcing arbitration agreements in Alabama. Author attributes these difficulties to a provision in the Alabama Code which provides that pre-dispute agreements to arbitrate need not be specifically enforced. The Alabama Supreme Court has refused to apply the Federal Arbitration Act to cases which have come before it.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: GENERAL.

**Cain, Rita M..** "Preemption of State Arbitration Statutes: The exaggerated federal policy favoring arbitration". Journal of Contemporary Law; May, 1993; 19(1): pp. 1-19.

Article examines the harsh effect of the Federal Arbitration Act (FAA) in preempting consumer protection statutes and rendering states incapable of assuring their citizens recourse to the court system. Author questions the federal policy of favoring arbitration and concludes that the courts are mistaken in preempting state consumer protection under the auspices of the FAA and that arbitration should remain within its intended confines.

SUBJ MATTER: CONSUMER/ REQUIREMENTS: STATUTORY OR RULES/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: PUBLIC POLICY.

**Calver, Richard.** "Commercial Arbitration: Alternative dispute resolution?" (Australia). Australian Dispute Resolution Journal; February, 1993; 4(1): pp. 34-42.

Article examines the role of commercial arbitration in the realm of alternative dispute resolution. Author explains the debate regarding how mandatory arbitration is undermining its strength as a mode of dispute resolution.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ  
MATTER:COMMERCIAL.

Cane, Marilyn B.. "Punitive Damages in Securities Arbitration: The interplay of state and federal law (or a smaller bite of the big apple)". Journal of Dispute Resolution; March 22, 1993 - Spring; 1993(1): pp. 153-73.

Author asserts that an attempt to limit the authority of an arbitrator to award punitive damages, through choice-of-law and choice-of-forum provisions in standard contracts, undercuts the fundamental fairness of securities arbitration. Author argues, that in order to provide a valid alternative to the judicial resolution of securities disputes, all available remedies should be made available in securities arbitration, including punitive damages.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING  
ARB-GENERAL/ SUBJ MATTER: SECURITIES.

Cappelletti, Mauro. "Alternative Dispute Resolution Processes Within the Framework of the World-wide Access-to-Justice Movement". Modern Law Review; May, 1993; 56(3): pp. 282-96.

Article is the author's opening session of a workshop entitled "Dispute Resolution: Civil Justice and Its Alternatives." Author discusses the access-to-justice movement and its economic and organizational obstacles. He explores the role of ADR in this movement on a world-wide basis and discusses specific countries such as Japan, China, France, and Canada.

SUBJ MATTER: GENERAL/ COMPARISONS: CROSS-CULTURAL/  
JUDICIAL PARTICIPATION.

Carr, Frank. "Alternative Dispute Resolution: A deliberative process to establish an organizational program." Federal Bar News and Journal; August 1993; 40(7): pp 444-47.

Article discusses recent developments in the use of ADR in cases involving government contracts. Author surveys recent attempts to establish a systematic ADR process in these cases and concludes that the most successful programs will begin with a needs analysis and pilot testing before full implementation of a program.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T  
CONTRACTS.



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**Carr, Kathleen B.** "The Enforcement of Arbitration Clauses in Marine Insurance Contracts" (The conflict between the Arbitration Convention and the McCarran-Ferguson Act). Tulane Maritime Law Journal; December 22, 1993 - Winter; 18(1): pp. 71-87.

Article examines the McCarran-Ferguson Act, the Arbitration Convention, and the conflicts that exist between the two. Author argues that state prohibition of arbitration clauses in marine insurance contracts should be enforced.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: MARITIME/ SUBJ MATTER: PUBLIC POLICY/ POWER IMBALANCE.

**Carrasco, Enrique R.** "Chile, Its Foreign Commercial Bank Creditors, and Its Vulnerable Groups: An assessment of the cooperative case-by-case approach to the debt crisis." Law and Policy in International Business; April 1993- Winter; 24(2): pp. 273-389.

Author concentrates on relations between debtor countries and their foreign commercial bank creditors. He argues that case-by-case negotiation to restructure debt in Latin American countries has been the most successful way to restructure debt to date in the region, and uses Chile as an example of success.

SUBJ MATTER: INT'L/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL.

**Casolaro, John R.** "A Primer on Appraisal to Resolve Valuation Disputes" (part 2). New York State Bar Journal; February, 1993; 65(2): pp. 46-51.

Article discusses the utility of employing third-party appraisers to resolve disputes over rent adjustments, contract option prices, and other valuation issues. Author endorses third-party appraisals as a dispute resolution tool. However, author notes that significant differences exist between appraisal and arbitration, especially with regard to the scope and standard of judicial review afforded their outcomes.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OBTAINING AGREEMENT TO USE/ ARB: JUDICIAL REVIEW/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES.

Cassels, Jamie. "Good Faith in Contract Bargaining: General principles and recent developments". (Canada). Advocates' Quarterly; March, 1993; 15(1): pp. 56-90.

Article surveys recent Canadian common law to illustrate a trend toward emphasis on good faith in contract bargaining and a willingness by the courts to present various arguments on both sides of this issue.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
NEG:W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/  
NEG: W/OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/  
NEG: TACTICS,STRATEGIES AND TECHNIQUES- THREATS/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/  
SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L/  
COMPARISONS: CROSS-CULTURAL/ ETHICS:  
MISREPRESENTATION, FAILURE TO DISCLOSE.

Chambers, Marcia. "Nearly Every State Court has an Alternative Dispute Resolution Program". The National Law Journal; September 27, 1993; 16(4): p. 21.

Article discusses the ever-increasing use of alternative dispute resolution programs. Author notes the advantages of the privatization of conflict resolution and also its disadvantages, especially the lack of a public reporting process.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED:RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY  
DIALOGUE/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB:  
MANDATORY,COURT-ANNEXED- GENERAL/ ARB: FEES AND  
FUNDING OF ARBITRATOR/ INST NATURE: JUSTICE SYSTEM-  
GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER:  
CONSUMER/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: FAMILY  
(DOMESTIC REL)/ SUBJ MATTER: MEDICAL MALPRACTICE/  
REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS:  
MANDATE TO USE/ ECONOMIC ADVANTAGES OF ADR.

Cheifetz, Cary B.. "Making ADR Work in Family Law Practice". New Jersey Law Journal; August 16, 1993; 134(16): pp. S22- S24.

Author discusses the most frequently employed ADR techniques in family law: voluntary mediation, arbitration and various court-ordered techniques (compulsory mediation, early settlement programs, and case management conferences). Author identifies the advantages and disadvantages of each

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process and encourages their use in handling the growing family law caseload.

MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES.

**Chernick, Richard.** "The New Dispute Resolution Consortium: Participants seek gains in research, program development, and evaluation". Los Angeles Lawyer; February, 1993; 16(2): pp. 10-12.

Succinct article describing an array of upcoming dispute resolution projects in five areas: 1) dispute resolution in schools; 2) federal and state court annexed programs; 3) private sector dispute resolution; 4) public sector programs; and 5) ADR in the legal profession.

INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER/ INST NATURE: GOV'T ENTITIES/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: GOV'T/COMPARISONS: CROSS-CULTURAL/ JUDICIAL PARTICIPATION/ ROLE OF LAWYERS/ TEACHING.

**Claps, Thomas E..** "Labor Law-- Arbitration Awards" (Survey of Recent Developments in Third Circuit Law). Seton Hall Law Review; December 22, 1993 - Winter; 24(1): pp. 541-46.

Article discusses the recent judicial review of arbitration decisions which arose from collective bargaining agreements. The judicial review was based on the claim that these provisions were inconsistent with public policy. Author highlights one recent case dealing with drug testing.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY.

**Clark, R. Theodore, Jr..** "Management Perspective" (response to article by Paul F. Gerhart in this issue, p. 24: "The Changing Competitive Environment and Arbitration"). Proceedings of the Annual Meeting of the National Academy of Arbitrators; January, 1993; 46: pp. 38-47.

Author disagrees with some of the points made in the principal paper and recognizes the important impact a competitive marketplace or environment has on the process and substance of labor arbitration and its participants. Author comments on five areas: (1) the current competitive environment; (2)

changes in collective bargaining; (3) grievance mediation; (4) employer-initiated arbitration; and (5) the role of the arbitrator in the current competitive environment.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Clayton, Richard and Bruce Harris (Director of Chartered Institute of Arbitrators) (United Kingdom). Solicitors Journal; July 30, 1993; 137(29): p. 752.

Bruce Harris has been named the new director of the Chartered Institute of Arbitrators. The mission of the organization, under his leadership, will be to increase public awareness of arbitration as an alternative form of dispute resolution.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL.

Clement, Jeanne A. and Andrew I. Schwebel. "A Research Agenda for Divorce Mediation: The creation of second order knowledge to inform legal policy". Ohio State Journal on Dispute Resolution; September 22, 1993 - Fall; 9(1): pp. 95- 113.

Authors describe the outcome of the Divorce Mediation Research Seminar, organized at Ohio State University to share ideas in the field of divorce mediation. A research agenda is discussed that could lead to the development of new kinds of knowledge about the practice of divorce mediation and favorably influence policy.

MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING GUIDELINES/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/CONFERENCE PROCEEDINGS.

Cochran, Robert F., Jr.. "Must Lawyers Tell Clients About ADR?". Arbitration Journal; March 22, 1993; 48(2): pp. 8-13.

Author argues that attorneys have a duty to advise clients of ADR options. Author advocates the imposition of disciplinary action or malpractice liability upon those attorneys failing to advise clients of ADR alternatives.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB:CLIENT REP/ ETHICS: GENERAL/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS.

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**Cohen, David S..** "Mediation: Sanity in the regulatory process (Living Without Lawyers)". Public Utilities Fortnightly; January 15, 1993; 131(2): pp. 18-19.

Article examines the methods regulatory agencies use to settle conflicts. Author concludes that the adversarial model, currently used by most regulatory agencies, should be replaced by mediation. Mediation would encourage negotiation and debate among the conflicting parties and promote more beneficial outcomes.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: PUBLIC UTILITIES.

**Coleman, B. Jay, Kenneth M. Jennings, and Frank S. McLaughlin.** "Convergence or Divergence in Final-Offer Arbitration in Professional Baseball". Industrial Relations; March 22, 1993 - Spring; 32(2): pp. 238-47. Article explores the theoretical and practical implications of salary arbitration in Major League Baseball. Using models, the authors test the assumption that club owners tend to maximize expected monetary value. Article concludes that claims of divergence are invalidated in dispute management contexts where there is a broad range of other motivations for settling the dispute.

ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/SUBJ MATTER: SPORTS AND ENTERTAINMENT.

"Collective Bargaining and Disputes, Strikes, Wages, and Benefits: Labor Shortage" (Labor in Malaysia, part 2). East Asian Executive Reports; April 15, 1993; 15(4): pp 16-20.

Article addresses Malaysia's collective bargaining and labor dispute policy, in which arbitration is required, and the role of the government if bargaining efforts fail.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: MANDATE TO USE.

**Collier, J.G..** "Notes and Comments on Cases in International Law: Commercial Law and Arbitration" (book review). Cambridge Law Journal; July, 1993; 52(2): pp. 345-47.

Short review of a collection of 81 case notes and comments on statutes by the late F.A. Mann. Eleven of the comments are on the topic of arbitration spanning a time period from 1942 - 1991.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

Collyer, Michael L.. "Punitive Damages in Arbitration: The Second Circuit on a Collision Course with the U.S. Supreme Court". Ohio State Journal on Dispute Resolution; March 22, 1993 - Spring; 8(2): pp. 385-99.

Article analyzes how federal courts have dealt with the issue of whether arbitrators are empowered to award punitive damages. Author examines the Second Circuit case of Fahnestock v. Waltman. Author concludes that the Second Circuit's reasoning in recent cases discloses an intent to deprive arbitrators of the power to award punitive damages in derogation of Supreme Court precedent to the contrary.

ARB: MANDATORY, COURT-ANNEXED- FINANCIAL  
DISINCENTIVES/ TYPE OF SOURCE: CASE STUDY/ RESEARCH  
REPORT/ LEGISLATION.

Colon, Robert. "The Building Administrator: The forgotten person in the contract process" (schools). Journal of Collective Negotiations in the Public Sector; March 22, 1993; 22(2): pp. 173-78.

Author criticizes the lack of participation by the building principal in three segments of the labor contract process: development, administration, and resolving grievances. Author advocates a management team concept that would allow for a more defined role for the building principal in the contracting process.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
CULTURAL CONSIDERATIONS/ NEG: USE OF BARGAINING  
TEAMS/DISPUTE NEG. v. DEAL MAKING/ SELECTION OF  
APPROPRIATE PROCESS/ TEACHING.

"Company 'Mediator' Was Taking Part in Sit-In" (United Kingdom). Industrial Relations Law Bulletin; May 15, 1993; 473: pp. 10-12.

Article provides a synopsis of Wood Group Engineering Contractors Ltd. v. Byrne (2.12.92 (S) EAT 447/92), in which a company mediator who voluntarily took part in a "sit-in" was found to have been a "relevant employee" taking part in an industrial action.

SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-  
MANAGEMENT(UNIONS)/ 3RD PARTY: NEUTRALITY.

"Concerns: Fee Caps and ADR" (alternative dispute resolution) (President Clinton's health care plan). The National Law Journal; September 27, 1993; 16(4): p. 9.

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Article discusses a provision in Clinton's health care plan which calls for the resolution of medical malpractice claims by alternative dispute resolution. Consumer claims concerning the denial of healthcare benefits may also be resolved through alternative dispute resolution under the plan.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/SUBJ MATTER: CONSUMER/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: MEDICAL MALPRACTICE/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION.

Conn, Deanna. "Assessing the Impact of Preferential Trade Agreements and New Rules of Origin on the Extraterritorial Application of Antitrust Law to International Mergers". Columbia Law Review; January, 1993; 93(1): pp. 119-77.

Article analyzes recent changes in rules of origin in the European Community and their impact on American merger and antitrust law. Author evaluates the possibility of applying U.S. antitrust jurisdiction extraterritorially. Author suggests the use of arbitration to resolve cases of "true conflict".

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL.

Cook, Robert T.. "The Summary Jury Trial: A summary of issues in dispute resolution". Journal of Dispute Resolution; September 22, 1993 - Fall; 1993(2): pp. 359-72.

Article discusses the summary jury trial as a viable form of alternative dispute resolution. Discussion serves as a vehicle to discuss a variety of ADR issues.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-GENERAL/ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/REQUIREMENTS: STATUTORY OR RULES/ SELECTION OF APPROPRIATE PROCESS/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL.

Cooley, John W.. "Classical Approach to Mediation: Part I". University of Dayton Law Review; September 22, 1993 - Fall; 19(1): pp. 83-131.

Article describes classical rhetoric and its relation to different stages of the mediation process. Author addresses the ethical implications of training mediators in the use of rhetorical techniques.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ 3RD PARTY: TRAINING/ 3RD PARTY: NEUTRALITY/ FAIRNESS.

Cooley, John W.. "Mediation and Joke Design: Resolving the incongruities". Journal of Dispute Resolution; February, 1993 - Fall; 1992(2): pp. 249-302.

Article compares the mediation process to the process of developing a humorous device. Author claims that studying humor and joke design can help mediators devise more effective and creative solutions to disputes.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PROCESSES-GENERAL.

Cooney, John F.. "Face to Face--The Art of Negotiating: How, When, and Why (environmental disputes involving public utilities, citizens groups, and federal regulators)". Public Utilities Fortnightly; July 15, 1993; 131(16): pp. 10-15.

Article offers advice concerning negotiation and mediation to public utilities in environmental disputes with governmental agencies. Author indicates that these forms of alternative dispute resolution can be mutually beneficial to both parties.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC UTILITIES/ SUBJ MATTER: REGULATORY.

Corne, Peter. "Judicial Conciliation in Japan: An examination of procedure and practice". Australian Dispute Resolution Journal; May, 1993; 4(2): pp. 139-49.

Article examines "chotei," the judicial conciliation process in Japan, and the role of chotei in civil disputes. Author examines other methods of conciliation that could be utilized more widely in Australia. The 60-year-old conciliation process in Japan encourages settlement through the use of conciliators who make suggestions to both parties.

NEG: CULTURAL CONSIDERATIONS/ NEG: W/ OR W/O ASSIST OF 3D- PARTY NEUTRAL- GENERAL/ INST NATURE: JUSTICE



SYSTEM- OTHER CIVIL COURTS/ INST NATURE: JUSTICE SYSTEM-  
GENERAL/ SUBJ MATTER: INT'L/ INST NATURE: JUSTICE SYSTEM-  
OTHER.

**Corones, Stephen and Robert Baxt.** "The Hilmer Report and Its Potential Implementation" (The Hilmer Report on Competition Policy). Australian Business Law Review; December, 1993; 21(6): pp. 451-55.

Article discusses certain aspects of the implementation of the Hilmer Report on Competition Policy while noting that some issues, such as price, would be subject to arbitration by the Australian Competition Commission.

SUBJ MATTER: INT'L/ ARB: MANDATORY, COURT-ANNEXED-  
GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ  
MATTER:CORPORATE.

**Costello, Edward J., Jr..** "Selecting a Neutral". Arbitration Journal; September, 1993; 48(3): pp. 42-46.

Article reviews the methods available for gathering information on a proposed neutral party: biographies, published works of the neutral party, and the informal network among litigators and clients. Author also explains the use of two underused methods: interviewing and checking the neutral party's references.

ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND  
QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION.

**Costello, Joseph J. and Stacy K. Weinberg.** "Toledo Blade and Colorado-Ute: When is bargaining to impasse not enough?". The Labor Lawyer; July, 1993 - Spring; 9(2): pp. 127-35.

Authors describe two recent decisions of the National Labor Relations Board and the uncertainty that they have produced among employers regarding their ability to bargain to an impasse and then adopt a provision containing a purported waiver of a union's mandatory subject of bargaining rights.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ  
MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-  
MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR  
RULES.

**Coughlin, Dan, Laura Kintz, John Moore, and Melissa Morrow.** "Recent Developments: The Uniform Arbitration Act". Journal of Dispute Resolution; September 22, 1993 - Fall; 1993(2): pp. 397-438.

Article surveys recent developments in case law concerning the Uniform Arbitration Act (UAA) and state versions of it. Authors analyze the various interpretations of the UAA and comparable state versions with the goal of promoting uniformity in their interpretation. Authors explain the goals and purposes of the UAA in light of recent case law.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: GOV'T.

Cowan, Veronica and J.C. Smith. "Perverting Course of Justice--Accused and Victim Negotiating Payment for Dropping Assault Charge--Whether Bribery Alone Amounts to Unlawful Means or Whether Improper Pressure Is Also Required" (United Kingdom). Criminal Law Review; May, 1993: pp. 396-97.

Author maintains there is no distinction between bribery and pressure to engage in bribery when considering unlawful means of negotiating payment for dropping assault charges.

SUBJ MATTER: CRIMINAL.; NEG.

Crabbe, Stephen. "ADR: A solution for environmental disputes". Arbitration Journal; March, 1993; 48(1): pp. 24-36.

Author discusses strong prospects for the growth and acceptance of ADR in environmental disputes. Expectations for the growth and acceptance of ADR can be attributed to the federal and state legislative use of ADR, an increased demand for ADR training by governmental agencies and private corporations, and the long-term interests of the parties involved in environmental disputes.

SUBJ MATTER: ENVIRONMENT/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION.

Crow, Stephen M.. "Excessive Absenteeism and the Disabilities Act". Arbitration Journal; March, 1993; 48(1): pp. 65-70.

Article discusses the challenges that arbitrators face under the Americans with Disabilities Act (ADA). Arbitrators must attempt to balance the need to accommodate employees with disabilities and the right of employers to maintain an effective, reliable workforce. Some potential impediments to arbitration are identified.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION.

Cusimano, Gregory S.. "Smart Negotiating" (book review). Trial; February, 1993; 29(2): p. 71.

Favorable review of the book Smart Negotiating. Author discusses the book's "composite approach to negotiating." Reviewer finds it unique in comparison to the traditional "competitive" and "cooperative" approaches commonly used in negotiations.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
NEG:W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/  
NEG: W/OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/  
NEG:TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ TYPE  
OF SOURCE:BOOK REVIEW.

D'Avella, Bernard J., Jr.. "How to Get People to Use ADR". New Jersey Law Journal; August 16, 1993; 134(16): pp. S6-S8.

Article discusses some impediments to encouraging the use of ADR. Author identifies and explains two successful methods for increasing the use of ADR in New Jersey: the corporate pledge and court-mandated ADR programs.

INST NATURE: JUSTICE SYSTEM- GENERAL/ REQUIREMENTS:  
STATUTORY OR RULES/ COURT REFORM/ SELECTION OF  
APPROPRIATE PROCESS.

Davenport, Philip. "Convincing the Other Party--Independent Appraisal". Australian Dispute Resolution Journal; February 1993; 4(1): pp. 85-88.

Article proposes the concept of an "independent appraisal" as a way to resolve disputes without having an agreement or a binding decision. This concept involves both parties explaining their respective cases to an independent third party (the independent appraiser) who then gives a non-binding decision on the merits of each party's case.

NON-BINDING RECOMMENDATION PROC- GENERAL.

David, Theodore M.. "Let's Make A Deal: IRS offers in compromise". The Practical Tax Lawyer; March 22, 1993 - Spring; 7(3): pp. 13-21.

Author discusses the IRS procedure "Offer in Compromise" as a means of resolving tax liability disputes between taxpayers and the IRS.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB:  
CLIENT REP/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX.

**Davis, Benjamin, Odette Lagace Glain and Michael Volkovitsch.** "When Doctrines Meet: Fast-track arbitration and the ICC experience" (The 1993 Geneva Global Arbitration Forum). Journal of International Arbitration; December, 1993; 10(4): pp. 69-112.

Author provides a lengthy doctrinal development of fast-track arbitration clauses and discusses some issues surrounding the use of fast-track arbitration. Author identifies the fundamental criteria necessary for drafting an effective fast-track arbitration clause.

ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L.

**De la Fayette, Louise.** "The Award in the Canada-France Maritime Boundary Arbitration". International Journal of Marine and Coastal Law; March, 1993; 8(1): pp. 77-103.

Article discusses the Canada-France Maritime Boundary Arbitration Tribunal which rendered an award delimiting the maritime space under the jurisdiction of Canada and France in the area south of Newfoundland and the French islands of St. Pierre and Miquelon. Author focuses on the dissenting members of the arbitration tribunal who alleged that the decision had no legal basis.

SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME.

**DeBenedictis, Don J.** "House of Delegates: ABA Involvement Grows in Alternative Dispute Resolution". ABA Journal; April, 1993; (79): p. 114.

The ABA created a new section devoted to ADR and adopted standards for accrediting programs that certify lawyers as specialists. The new section focuses on general dispute resolution issues including drafting model legislation and ethical standards.

ETHICS: GENERAL/ ORGANIZATION POLICIES AND RULES/ QUALITY CONTROL/ TEACHING.

**DeBenedictis, Don J.** "Model for Asbestos Settlements: Companies agree to pay \$1 billion to exposed workers who haven't sued". ABA Journal; April, 1993; 79): pp. 22-23.

Article discusses a case which involved twenty former asbestos producers and two law firms. The parties devised a settlement to pay \$100,000 to plaintiffs who had not yet filed suit. If the settlement is successful, then it could serve as a model for resolving future claims in other mass toxic tort litigation. The agreement was negotiated by the Center for Claims

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Resolution, a non-profit organization formed by the 20 companies to represent them in asbestos cases.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: INSURANCE.

**DeBusk, F. Amanda and Gary N. Horlick.** "Dispute Resolution Under NAFTA: Building on the U.S.-Canada FTA, GATT and ICSID". Journal of World Trade (Law, Economics, Policy); February, 1993; 27(1): pp. 21-41. Article discusses the three "most fully elaborated" dispute resolution processes established under NAFTA: the ADR procedure for resolving disputes between a signatory nation and investors from another signatory nation, the procedure for resolving anti-dumping and countervailing duty disputes, and the procedure for resolving disputes between signatory nations. Authors compare NAFTA's ADR mechanisms with those in other agreements and conventions with emphasis upon the existence of tight deadlines, procedures to assure impartiality, and other "desirable characteristics" of ADR.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: INT'L/ 3RD PARTY: NEUTRALITY/ REQUIREMENTS: MANDATE TO USE.

**Deeny, Raymond M. and Wayne M. Williams.** "Management Perspective" (response to article by Lewis L. Maltby in this issue, p. 231: "Performance Monitoring and Arbitration"). Proceedings of the annual meeting of the National Academy of Arbitrators; January, 1993; (46): pp. 238-46.

Author attempts to respond to an anti-electronic monitoring device article and discusses the use of electronic devices to monitor the activities of employees. Article discusses the purposes of these devices and the benefits of making them the subject of arbitration in collective bargaining agreements.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Denis, Marty.** "ERISA "plans"--How Informal Can They Be?". Employee Relations Law Journal; March 22, 1993 - Spring; 18(4): pp. 603-22.

Article examines whether an ERISA plan, with the attendant ERISA statutory obligations, is created by something as simple as a single letter or an oral promise.

SUBJ MATTER: GOV'T/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION.

**Desler, Peter.** "Alternative Dispute Resolution: What is it?". Advocate (Idaho); August, 1993; 36(8): pp. 13-16.

In response to population growth and overcrowded dockets, the use of alternative dispute resolution (ADR) has increased in Idaho. Various forms of ADR techniques are used in Idaho such as: mediation, arbitration, early neutral evaluations, discovery referees and private trials. These forms of ADR are optional, not mandatory.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL.

**Dienelt, John F.** "The Procedural Decisions at the Threshold of Dispute Resolution". Franchise Law Journal; January, 1993; 12(3): pp. 95-98.

Article provides advice to franchisors and franchisees regarding traditional and alternative methods of dispute resolution. Author provides guidelines to parties to help them determine the best method by which to resolve their conflicts.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ SUBJ MATTER: COMMERCIAL/ SELECTION OF APPROPRIATE PROCESS.

**Dilts, David A.** "The Future for Labor Arbitrators: What are the options?" (includes related articles on the AFL-CIO). Arbitration Journal; June, 1993; 48(2): pp. 24-31.

Article examines the assumption that the future of labor arbitrators is dependent upon the future of collective bargaining. Author surveys the possibilities for the transfer of the abilities and skills of labor arbitrators into other conflict areas.

NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: LABOR-

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MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

**Dilts, David A.** "Labor-management Cooperation: Real or nominal changes in collective bargaining?". Labor Law Journal; February 1993; 44(2): pp. 124-28.

Author discusses the advantages and disadvantages of labor-management cooperative programs. Author defines the proper focus and other relevant aspects of such cooperative programs.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Dilts, David A.** "Labor-management Cooperation in the Public Sector". Journal of Collective Negotiations in the Public Sector; September 22, 1993 - Fall; 22(4): pp. 305-11.

Author examines the limitations placed upon public sector unions and employers entering into cooperation programs. He demonstrates that political and legal impediments exist in the public sector which are not faced in the private sector.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Dilts, David A., Stephen W. Boyda, and Mitchell A. Sherr.** "Collective Bargaining in the Absence of Protective Legislation: The case of Louisiana". Journal of Collective Negotiations in the Public Sector; June 22, 1993; 22(3): pp. 259- 65.

Authors discuss the potential effects of a de facto collective bargaining system on public sector institutions. Article provides case study example via the Orleans (Louisiana) Parish School System.

NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ SUBJ MATTER: GOV'T.

**Dilts, David A., William J. Walsh and Constanza Hagmann.** "State Labor-management Relations Legislation: Adaptive modelling". Journal of Collective Negotiations in the Public Sector; January, 1993 (Winter); 22(1): pp. 79-86.

Authors give an elementary review of the history of that area of labor law which controls collective bargaining at both the state and federal level.

Article concludes that the public and private sector collective bargaining processes have substantial elements in common.

TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ LEGISLATION.

**Disco, Matthew David.** "The Impression of Possible Bias: What a neutral arbitrator must disclose". California. Hastings Law Journal; November, 1993; 45(1): pp. 113-46.

Author discusses the "impression of possible bias" test laid down by the U.S. Supreme Court in Commonwealth Coatings Corp. v. Continental Casualty Co. and its consequent development in California law.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ 3RD PARTY: CONFLICT OF INTEREST.

**DiTolla, Daniel.** "Compulsory Interest Arbitration and the New Jersey Employer-Employee Relations Act". Journal of Collective Negotiations in the Public Sector; June 22, 1993 - Summer; 22(3): pp. 193-214.

Article discusses the enactment and implementation of the New Jersey Employer-Employee Relations Act of 1968 and the subsequent Firemen and Policemen Compulsory Arbitration of Labor Disputes Act of 1977. Author argues that the latter became necessary for unions because the first act provided no finality in dispute resolution and also prohibited the use of a strike. Author notes that while compulsory interest arbitration is not favored by employers, it is also not favored by employees who would prefer the right to strike.

ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION.

"Divorce Reform" (United Kingdom). Solicitors Journal; December 10, 1993; 137(47): p. 1231.

The Lord Chancellor is introducing new proposals on divorce reform that will minimize the bitterness and hostility between parties seeking a divorce. Article argues that the effort is being undermined by the Child Support Act, which was set up to operate independent of the courts and family lawyers. Article claims the Act hinders new reform because it reopens matters already settled in divorce disputes.

INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ DISPUTE PREVENTION.



**Doll, John R. and Daniel N. Kosanovich.** "Workplace Job Action: An effort to reshape the balance of power". The Labor Lawyer; March 22, 1993 - Spring; 9(2): pp. 149-67.

Authors discuss the use of various alternative strategies by unions to effect change in the workplace. Article examines such strategies as: working to rules, contacting state and federal agencies apart from the ones that administer the applicable collective bargaining law, and making conditions known to company officers and shareholders. Authors conclude that these alternative strategies are necessary for organized labor to have any measurable share of power under the current scheme of labor law.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Donegan, Susan L.** "ADR in Colonial America: A covenant for survival". Arbitration Journal; June, 1993; 48(2): pp. 14-22.

Author asserts several ADR models are not new, but rather date back to colonial times. Author contends an understanding of the historical context of ADR helps one better understand the modern popularity of ADR.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: PSYCH FACTORS/ COMPARISONS: HISTORICAL/ INST.  
NATURE: GENERAL.

**Donovan, Karen.** "ACCA Conference: Theme was doing more with less" (American Corporate Counsel Association). The National Law Journal; November 29, 1993; 16(13): p. 15.

Article reports that the theme of the ACCA conference was cutting costs. A session was offered on alternative dispute resolution as a cost-saving device.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ INST NATURE: PRIVATE,  
PROFIT-MAKING/ SUBJ MATTER: CORPORATE/ ECONOMIC  
ADVANTAGES OF ADR.

**Dougherty, James A.** "Modernization in Appeals" (tax appeals). The Tax Adviser; October, 1993; 24(10): pp. 675-79.

Article explains the Internal Revenue Service's (IRS) possible increased use of ADR in the IRS Appeals program.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX.

**Dresslar, Tom.** "Oil Price-Fixing Suit Nearing Final Accord" (oil industry's fixing the price of gasoline and other petroleum products). The Los Angeles Daily Journal; January 12, 1993; 106(7): p. 3.

Article summarizes the settlement in California v. Chevron in which ten companies were charged with conspiring to fix the price of gasoline and other petroleum products during the 1960s and 1970s.

INST NATURE: PRIVATE, PROFIT-MAKING.

**Driscoll, Daniel L.** "A Comparative Analysis of the Labor Statutes Which Govern the United States and Canadian Airline Industries and How the Relationship May Be Affected By A New Bilateral Air Agreement". Transportation Practitioners Journal; February 10, 1993; 6(2): pp. 119-42.

Negotiations are in progress between the United States and Canada to determine whether each should permit the other's air carriers unrestricted access to their air space. Differences between the nations' air industries' labor practices as well as the Canadian fear that such an agreement would disadvantage Canadian airlines are elements of primary consideration.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L.

**Driscoll, Jim.** "Land Use Mediation". Washington State Bar News; April, 1993; 47(4): p. 43.

Article notes that while complex land use disputes should be conducted in a quasi-judicial adversarial setting, land use disputes affecting only a few parties and involving simple issues can be resolved by mediation. Author provides a general list of land use issues that can be resolved by mediation and comments on procedural safeguards needed for the effective mediation of land use issues.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: ENVIRONMENT/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES.

**Drucker, Jacquelin F.** Collective Bargaining Law in Ohio, Cleveland: Banks Baldwin Law. Pub. Co., (1993).

Author provides, in loose-leaf treatise form, a thorough research guide to the Ohio Public Sector Collective Bargaining Act, the State Employment Relations Board, and the relevant Ohio case law. Book covers new case law

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and legislation and includes research aids like tables of cases and legislation and suggested related publications.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING  
ARB-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:  
LABOR-GENERAL/ TYPE OF SOURCE: BIBLIOGRAPHY.

**Duke, Benjamin.** "Regulating the Internal Labor Market: An information-forcing approach to decision bargaining over partial relocations". Columbia Law Review; May, 1993; 93(4): pp. 932-95.

Article evaluates the impact of the National Labor Relations Act's (NLRA) requirement of disclosure as it relates to plant relocation decisions. Author advocates rules which, like the NLRA, force management to make full disclosure when involved in collective bargaining with labor. Article discusses these rules in the context of internal labor market analysis.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Dunlap, Kathryn Sharp.** "The Relationship Between Outcomes in Collective Bargaining and Teachers' Decisional Participation State". Journal of Collective Negotiations in the Public Sector; January, 1993 - Winter; 22(1): pp. 31-43.

Article examines a survey conducted in eighteen Oklahoma school districts. Survey analyzed the association between the outcomes of collective bargaining sessions and the amount of teacher involvement in the organizational decision-making process. Author claims there is no appreciable correlation between the two, because the teachers have minimal input into the decision-making process. Article concludes with suggestions for the future that include: education, team work, communication, and teacher involvement.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/  
INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: EDUCATION/  
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

**Dutcher, Valle Simms.** "The Asbestos Dragon: The ramifications of creative judicial management of asbestos cases". Pace Environmental Law Review; March 22, 1993 - Spring; 10(2): pp. 955-1008.

Author considers the current and future implications of the judicial management of asbestos cases on defendant-companies and plaintiff-asbestosis patients.

SUBJ MATTER: ENVIRONMENT/ INST NATURE: JUSTICE SYSTEM-  
OTHER.

Dye, Brian. "Stays and support (arbitration in Channel Tunnel v. Balfour Beatty)". Solicitors Journal; May 7, 1993; 137(17): p. 433.

Author examines an important arbitration case in the United Kingdom's House of Lords. In Channel Tunnel v. Balfour Beatty, the Lord Justice clarified the court's power to order injunctive relief in support of contractual alternative dispute resolution agreements.

RELATION TO ONGOING LITIGATION/ JUDICIAL PARTICIPATION/  
REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS:  
CONTRACTUAL CLAUSES/ SUBJ MATTER: CONSTRUCTION/ SUBJ  
MATTER: INT'L/SUBJ MATTER: LABOR-GENERAL.

Edelman, Joel and Mary Beth Crain. The Tao of Negotiation: How You Can Prevent, Resolve, and Transcend Conflict in Work and Everyday Life. NY: Harper Busn. Pub., 356 pp. (1993).

Book advocates new approach to negotiation. Authors assert that, while a conflict may involve two or more people, it often takes only one person to resolve conflict or to prevent it from ever occurring.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/  
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:  
GENERAL.

Edelman, Lauren B., Howard S. Erlanger, and John Lande. "Internal Dispute Resolution: The transformation of civil rights in the workplace". Law & Society Review; August, 1993; 27(3): pp. 497-534.

Discusses a study of the effects of internal dispute resolution on civil rights complaints.

SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-  
GENERAL/TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Eisele, G. Thomas. "Differing Visions - Differing Values: A comment on Judge Parker's reformation model for federal district courts". SMU Law Review; June 22, 1993 - Summer; 46(5): pp. 1935-83.

Author contends that the court-annexed, mandatory ADR movement, if successful, will dramatically change our whole civil justice system and deny persons their right to a "day in court." Author gives a detailed analysis of

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the court-annexed, mandatory ADR movement and its effects on federal district courts and then offers reasons for opposing it.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COURT REFORM.

Eisen, Brian N.. "Cross-training: Sports litigation and the conflict of laws". Seton Hall Journal of Sport Law; January, 1993 - Winter; 3(1): pp. 41-110. Author examines conflict of laws issues in the context of sports law. Specifically, author reviews the doctrines and problems involved in horizontal choice of law, various choice of law methodologies, and vertical conflicts in labor and commercial arbitration.

SUBJ MATTER: SPORTS & ENTERTAINMENT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-GENERAL/ ARB: BINDING ARB-GENERAL.

El-Kosheri, Ahmed Sadek. "ICSID Arbitration and Developing Countries". ICSID REVIEW- Foreign Investment Law Journal; March 22, 1993; 8(1): pp. 104-15.

Author argues that, in order to evaluate the success of the International Center for Settlement of Investment Disputes system for handling disagreements among developing countries, reference should be made to the number of developing countries that have become parties to the 1965 Convention and to the number of disputes developing countries have submitted to the ICSID for resolution.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L.

Elkouri, Frank and Edna Asper Elkouri. Resolving Drug Issues, Washington D.C.: Bureau of National Affairs, 486 pp. (1993).

Book addresses arbitration as a viable alternative to resolve drug issues. Though arbitration is its main focus, the book also discusses various drug dilemmas that arise in a variety of contexts.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL.

Ellis, Rene, Karla Fischer, and Neil Vidmar. "The Culture of Battering and the Role of Mediation in Domestic Violence Cases". Southern Methodist University Law Review; June 22, 1993 - Summer; 46(5):

pp. 2117-74.

Authors argue mediation models are inappropriate for many domestic relations cases in which spousal violence has been identified. Authors assert spousal violence often involves not interpersonal conflict, for which mediation is well suited, but domination and control for which mediation is poorly equipped.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/  
MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: JUSTICE  
SYSTEM- FAMILY COURTS/SUBJ MATTER: FAMILY (DOMESTIC  
REL)/ FAIRNESS/ POWER IMBALANCE.

Emanuel, William J. and Michael L. Wolfram. "Arbitration of Law Firm Employment Disputes". Los Angeles Lawyer; March, 1993; 16(1):  
pp. 32-41.

Authors argue for the use of arbitration in law firm employment disputes and discuss questions of legality and how to implement an effective system of arbitration within a firm.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER:  
EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: LABOR-  
DISCRIMINATION/ ECONOMIC ADVANTAGES OF ADR.

Emerson, Robert W.. "Insurance Adjusters and Plaintiffs' Attorneys: From claims fraud consensus to settlement reform". American Business Law Journal; June, 1993; 30(4): pp. 537- 605.

Article seeks to develop an automobile insurance claims reform scheme based upon the premises apparently accepted by claimants' attorneys and insurance claims personnel. Article develops various methods to reduce the high transactional costs associated with the resolution of auto insurance claims. ADR, early pre-trial investigation, evaluations of insurers' alleged bad faith and claimants' alleged fraud, and strict liability for insurers' failure to settle within policy limits when claimants proceed pro se are proposed and discussed.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INSURANCE/  
SETTLEMENT: PRESSURES TO SETTLE/ ECONOMIC ADVANTAGES  
OF ADR.

Enslin, Pamela Chapman and Beverly Hall Burns. "Incorporating ADR Into a Law Firm Practice". Mihigan Bar Journal; October, 1993; 72(10):  
pp. 1032-036.

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Authors provide an overview of ADR mechanisms and explain how law firms should go about expanding their client services to include ADR. Specifically, authors discuss the need for commitment by the firm to educate attorneys, appoint an ADR coordinator, and implement marketing strategies designed to inform the public of available ADR services.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ NON-BINDING  
RECOMMENDATION PROC-GENERAL/ ARB: MANDATORY,  
COURT-ANNEXED- GENERAL/ ECONOMIC ADVANTAGES OF ADR/  
ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS/  
TEACHING.

**Etheridge, Jack P.** "Establishing a Joint State Bar Association and Supreme Court Commission on Alternative Dispute Resolution" (Symposium on Emerging Alternative Dispute Resolution Systems). Kentucky Law Journal; June 22, 1993 - Summer; 81(4): pp. 1085-92.

Article traces the development of the Commission on Alternative Dispute Resolution in Georgia. The Commission was developed in response to a section of the 1983 Georgia Constitution that mandates the "speedy, efficient, and inexpensive resolution of disputes." Author believes that a number of factors have led to the success of ADR and the Commission including decisions by the Georgia Supreme Court and the receptiveness of Commission members.

INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ COURT REFORM/ JUDICIAL PARTICIPATION.

**Evans, David Lee and Irene R. Good.** "Pre-award Security in Arbitration" (Massachusetts Supreme Judicial Court Annual Review). Boston Bar Journal; January, 1993; 37(1): pp. 19-21.

Article considers three potential sources of an arbitrator's power to issue interim security orders: implied authority based on the use of an arbitration agreement; the language of the agreement itself; and arbitration statutes.

ARB: MANDATORY, COURT-ANNEXED- FINANCIAL  
DISINCENTIVES/ARB: BINDING ARB- GENERAL/ ARB: DRAFTING  
ARB AGREEMENT/ ARB: JUDICIAL REVIEW.

**Eveleth, Janet Stidman.** "ADR in Maryland: Less traveled road leads to super highway (focus on Chief Judge Alan M. Wilner of the Maryland Court of Special Appeals) ('Time Out to Mediate')". Maryland Bar Journal; March, 1993; 26(5): pp. 2-4.

Article discusses the growing use of ADR by the Maryland court system during the past decade and how the use of ADR must increase if the Maryland courts are to continue managing their dockets. Author also discusses the different approaches states can use to implement ADR in their judicial systems, including mandated case diversion and case-by-case categorization used by Maryland.

MED: PUBLIC POLICY DIALOGUE/ INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ COURT REFORM/ SELECTION OF APPROPRIATE PROCESS.

Eveleth, Janet Stidman. "Family Law System Faces Crisis". The Maryland Bar Journal; March, 1993; 26(2): pp. 44-47.

Robert Watts, Chairman of the Governor's Task Force on Family Law, explains that the lack of access to the Maryland family law system has rendered the system dysfunctional. He suggests strengthening and simplifying the system by creating a family law court and streamlining the system through the adoption of new spousal support guidelines.

INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Ezejiolor, Gaius. "The Nigerian Arbitration and Conciliation Act: A challenge to the courts". Journal of Business Law; January, 1993: pp. 82-103.

Article highlights the acute constructional problems of several provisions of the Nigerian Arbitration and Conciliation Act and suggests possible interpretations.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: INT'L/ LEGISLATION.

Fagan, Wayne I. and Carlos Gabuardi Arreola. "The Arbitration of Private Commercial Disputes Between Residents of Texas and Mexico". St. Mary's Law Journal; January, 1993 - Winter; 24(3): pp. 803-27.

Article evaluates the effectiveness of the Texas International Arbitration Act of 1989. Author discusses the forms of laws and treaties which govern transborder disputes and how arbitration can act as a viable alternative to them.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE.



**Falk, David B.** "The Art of Contract Negotiation (The First Annual Sports Dollars & Sense Conference: A Symposium on Sports Industry Contracts and Negotiations)". Marquette Sports Law Journal; May, 1993 - Fall; 3(1): pp. 1-27.

Author clarifies the nature of sports contract negotiations by sharing his own experiences as a sports attorney. Article emphasizes the following points: background research; preparation in writing; creativity; and flexibility.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ SUBJ MATTER: SPORTS & ENTERTAINMENT.

**Fienberg, Lorne.** "Retaliation Claims Under s. 4(d) of the ADEA (1991-92 Annual Survey of Labor and Employment Law)". Boston College Law Review; March, 1993; 34(2): pp. 413-22.

Author explores the issue of retaliatory action taken by an employer against an employee who has made a charge based on the Age Discrimination in Employment Act of 1961 (ADEA). Although many claims still arise, recent cases have strengthened the rights of ADEA claimants. Courts are optimistic these case holdings will deter employers from taking retaliatory action against their employees. Article focuses on the Seventh Circuit's current position and its likely impact on in-house grievance procedures.

SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ DISPUTE PREVENTION/POWER IMBALANCE.

**Feller, David E.** "End of the Trilogy: The declining state of labor arbitration" (Steelworkers Trilogy of 1960). Arbitration Journal; September, 1993; 48(3): pp. 18-26.

Article begins with the history of the Steelworker Trilogy, and then goes on to describe the move away from the holdings in those cases. Author concludes by emphasizing and defining the unique nature of labor arbitrations.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COURT REFORM.

**Ferrara, Lucas.** "Hey, Mr. Arbitrator!, There's No Small Change in Small Claims Court" (New York). Barrister; January, 1993 (Winter); 19(4): pp. 14-18.

Author is a private sector attorney who serves as a pro bono arbitrator in a New York City small claims court. He discusses a difficult but interesting case involving irate parties.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING.

Ferrara, Ralph. C., Danny Ertel and Kelly McCabe. "Alternative Dispute Resolution in Class Action Suits". Review of Securities & Commodities Regulation; October 27, 1993; 26(19): pp. 191-200.

Article discusses the advantages of the use of ADR by the securities industry. Authors propose several model procedures for parties to follow which could increase the number of settlements in security class-action litigation.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: SECURITIES/ SUBPOENA AND DISCOVERY.

Fine, Cory R.. "The New Collective Bargaining Law in New Mexico". Journal of Collective Negotiations in the Public Sector; March 22, 1993 (Spring); 22(2): pp. 151-56.

Author identifies the collective bargaining legislation in New Mexico as the first of its kind in the Southwestern United States. Article gives a general overview of the history, content, and potential impact of the 1992 New Mexico law that allows for public employee collective bargaining.

LEGISLATION/ SELECTION OF APPROPRIATE PROCESS/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL.

Finkelstein, Claire. "Financial Distress as a Noncooperative Game: A Proposal for Overcoming Obstacles to Private Workouts". Yale Law Journal; June, 1993; 102(8): pp. 2205-30.

Article advocates private negotiations instead of court supervised bankruptcy workouts. Author walks the reader through the necessary steps that must be taken in pre-contractual dealings and the drafting of original contracts so that the parties can avoid the economic problems that often thwart private workouts.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTUAL CLAUSES.

**Fischer, Karla, Neil Vidmar and Rene Ellis.** "The Culture of Battering and the Role of Mediation in Domestic Violence Cases". SMU Law Review; June 22, 1993 - Summer; 46(5): pp. 2117-74.

Article argues against the use of mediation in cases of serious spousal abuse. Author argues that many cases of serious spousal abuse are thrown into mediation and that the ideology and practice of mediation are generally incompatible with the goal of protecting the rights and safety of battered women.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

**Fisher, Tom.** "Victim/Offender Mediation: A survey of overseas practices and research". Australian Dispute Resolution Journal; May, 1993; 4(2): pp. 125-38.

Article outlines the use of victim/offender mediation practices in dispute resolution centers in North America, Europe, and Great Britain. Author examines the effectiveness of victim/offender mediation and the use of restorative justice, rather than retributive justice.

MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: JUSTICE SYSTEM- GENERAL.

**FitzGibbon, Susan, A..** "Appellate Settlement Conference Programs: A case study". Journal of Dispute Resolution; March 22, 1993; 1993(1): pp. 57-112.

Article provides case study of the Missouri Court of Appeals' Eastern District Settlement Program. Author provides an overview of the program and focuses on its authority, purpose, and procedural validity. Author concludes by outlining a proposed National Reporting System for the various settlement programs used by court systems throughout the country.

TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE/ SETTLEMENT: AUTHORITY/ SUBJ MATTER: PUBLIC POLICY.

**Flood, John and Andrew Caiger.** "Lawyers and Arbitration: The jurisdiction of construction disputes" (United Kingdom). Modern Law Review; May, 1993; 56(3): pp. 412-40.

Article explores the role and history of arbitration in the construction industry. Authors, through a series of interviews, determine the relative

power of lawyers and nonlawyers and discuss the power struggle between lawyers and nonlawyers to control the construction arbitration.

ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: CONSTRUCTION/ 3RD PARTY: VOLUNTEER OF LAYPERSONS/ COMPARISONS: HISTORICAL/ ROLE OF LAWYERS.

Florescu, Grigore. "The Evolution of Commercial Arbitration in Romania". Journal of International Arbitration; March, 1993; 10(1): pp. 95-104.

Author reviews the new procedural rules and regulations for international commercial arbitration in Romania.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ COURT REFORM.

Fn'Piere, Patrick and Linda Work. "On the Growth and Development of Dispute Resolution". Kentucky Law Journal; June 22, 1993 - Summer; 81(4): pp. 959-75.

Article documents the growth of ADR over the last two decades. Specifically, article explains how ADR has developed from two schools of thought: (1) the "court-based school" which views ADR as a practical solution to crowded court dockets; and (2) the "community school" which maintains that ADR has developed because of its ability to provide access to justice and empower communities and individuals. Author concludes that while ADR will face challenges, it will continue its rapid development.

INST NATURE: GOV'T ENTITIES/ ECONOMIC ADVANTAGES OF ADR.

Foster, Howard G.. "Arbitration 1992: The changing face of arbitration in theory and practice". Industrial and Labor Relations Review; July, 1993; 46(4): pp. 719-20.

Author reviews a book composed of a compilation of recent articles on arbitration. The author finds the book to be an excellent overview of timely topics in arbitration for the 1990s.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ TYPE OF SOURCE: BOOK REVIEW.

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**Fox, Diane.** "Evolution of the Post-expiration Duty to Arbitrate Grievances". Ohio State Journal on Dispute Resolution; September 22, 1993 - Fall; 9(1): pp. 161-80.

Author examines the Supreme Court's decision in Litton v. NLRB and the preceding cases. She suggests that the three-pronged test in Litton creates fairer standards than those suggested by its predecessors for judging whether an arbitration clause survives expiration of a collective bargaining agreement.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT(UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES.

**Fox, Mildred J., Jr. and Iris W. Amon.** "The Reshaping of Nonrenewal and Termination Practices Regarding Teacher Contracts: A Texas focus". Journal of Collective Negotiations in the Public Sector; January, 1993 - Winter; 22(1): pp. 13- 29.

Article focuses on the educational reform that Texas took in passing the Term Contract Renewal Act. The Act recognizes new considerations relating to contract terms and contract renewal and represents the national trend regarding the severance of teacher contracts.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: EDUCATION.

**Francis, William G..** "SCR 3.815 - Settling Lawyer Disputes". Kentucky Bench and Bar; September 22, 1993; 57(4): pp. 43-44.

Article on a new Kentucky Supreme Court Rule providing a method of ADR for attorneys to use in order to settle their disputes. Rule allows attorneys confidentiality and the ability to keep their disputes out of the public eye.

MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ CONFIDENTIALITY/ORGANIZATION POLICIES AND RULES.

**Franklin, GERALYN McClure.** "The Third-party Hearing Examiner Appeals Process Under the Texas Municipal Civil Service Act: Perceptions of the institutional parties". Journal of Collective Negotiations in the Public Sector; January, 1993 - Winter; 22(1): pp. 69-78.

Author uses a survey of firefighters and police officers to examine the affects of the Texas Municipal Civil Service Act's 1981 revision. Examining the revision's addition of third-party hearing examiners to the labor appellate process, author indicates that both types of civil servants, while preferring

appeal to the civil service commission on promotion issues, preferred third-party hearing examiners in suspension cases.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/TYPER OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES.

**Frederick, Donald A.** "Legal Rights of Producers to Collectively Negotiate" (Symposium: Agricultural Law, 1992, American Agricultural Association). Willam Mitchell Law Review; March 22, 1993 - Spring; 19(2): pp. 433-55.

Article discusses how farmers can respond to marketplace imbalances by joining together in cooperative bargaining associations to negotiate with buyers on a collective basis. Article also explores federal and state statutes that promote collective negotiation activities by producers.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: FARM.

**Friedman, Gary J.** A Guide to Divorce Mediation : How to reach a fair, legal settlement at a fraction of the cost, New York: Workman Pub.; 376 pp. (1993).

Purpose of the book is to describe, in layperson's terms, how the mediation process works in a divorce proceeding, how to choose a mediator, and when mediation should be used. Author uses 12 different cases to demonstrate what may happen in various types of divorce situations. Author, a divorce mediator himself, is extremely optimistic about the use of mediation in the context of a divorce.

**Friedman, Hal Daniel.** "Court Ordered Mediation in Kentucky: A boon or bane for Kentucky trial lawyers?". Kentucky Bench and Bar; September 22, 1993; 57(4): pp. 10-15.

Author gives a detailed account of mediation as performed under the Indiana Mediation Rule in anticipation of Kentucky's adoption of the Rule. Critique of it given from both the perspective of a judge and a lawyer. A summary of the Rule's successes is given as well.

MED: RELATED PROCESSES-GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ JUDICIAL PARTICIPATION.

**Friedman, Sheldon and Richard Prosten.** "How Come One Team Still Has to Play With Its Shoelaces Tied Together?". Labor Law Journal; August, 1993; 44(8): pp. 477-85.

Article explores the demise of collective bargaining and employees' true right to self-organize. Authors conclude that a major overhaul of U.S. labor law is necessary to restore the workers' fundamental right to self-organize under the Wagner Act.

NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: LABOR-GENERAL/SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Friedman, Steven, ed..** The Long Journey: South Africa's quest for a negotiated settlement, South Africa: Raven Press, 206 pp. (1993).

Book is a collaborative study conducted by the Centre for Policy Studies. It attempts to explain South Africa's transition to a democracy through a detailed examination of events leading up to, and the aftermath of, the Convention for a Democratic South Africa (Codesa). Book delves deep into the negotiation process at Codesa to understand more fully its successes and failures through an examination of the negotiation strategies behind the various factions' positions and their consequent political maneuverings.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/.

**Fulkerson, George I.** "Jurisdiction Under the Federal Act: An overview of requirements for enforcement of arbitration agreements". Michigan Bar Journal; October, 1992; 72(10): pp. 1030-31.

Article discusses arbitration agreements in Michigan which must be set forth under either the Federal or Michigan Arbitration Acts depending on the jurisdiction. Article suggests that Michigan look toward using the Federal Arbitration Act even when state issues are involved because the federal decisions are more liberal in upholding arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: STATUTORY OR RULES/ REQUIREMENTS: CONTRACTUAL CLAUSES.

Galbraith, Brad A.. "Vacatur of Commercial Arbitration Awards in Federal Court: Contemplating the use and utility of the 'manifest disregard' of the law standard". Indiana Law Review; December 22, 1993 - Winter; 27(1): pp. 241-65.

Article examines judicial review of arbitration awards in the federal courts. Article identifies the statutory and non-statutory grounds in each circuit for vacating arbitration awards.

ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-APPELLATE COURTS.

Gallagher, Michael J.. "Statutory Rights and Predispute Agreements to Arbitrate in Contracts of Employment". St. John's Law Review; January, 1993 - Winter; 66(4): pp. 1067-93.

Article discusses the extent to which employee arbitration clauses are governed by the Federal Arbitration Act. Article includes a proposal that substantive state law should be applied to the interpretation of arbitration clauses in individual contracts where federal guidelines are absent.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB-GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES.

Galton, Eric. Mediation: A Texas practice guide, Dallas, Tx: Texas Lawyer Press, 213 pp. (1993).

Provides a comprehensive guide to mediation helpful to practitioners already in the field as well as those wishing to start or build an ADR practice. Topics covered include: how to determine whether and when to mediate, different mediation styles, mediator selection, use of mediation exhibits and demonstrative aids, and impasse-breaking techniques. Special focus is given to the mediation of family law, medical negligence, consumer, and employment disputes.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: TIMING/ MED: OPENING AND SETTING GUIDELINES/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

Garvey, Jack L. "Judicial Foreign Policy-making in International Civil Litigation: Ending the charade of separation of powers". Law and Policy in International Business; January, 1993; 24(2): pp. 461-501.



## 1993 BIBLIOGRAPHY

Author identifies several areas of international litigation such as sovereign immunity, act of state doctrine, forum non conveniens, and extra-territorial jurisdiction, and argues that these areas present a separation of powers controversy. Author argues that the judiciary is making unconstitutional foreign policy decisions in these areas and presents an outline of a paradigm for international civil litigation that will adhere to the separation of powers doctrine.

SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L.

**Gauvey, Susan K.** "The Private Bar's Role in ADR. The Maryland Bar Journal; September, 1993; 26(5): pp. 6-10.

Author identifies a number of factors that have worked to make the use of ADR more common. These factors include: client concerns over the cost of litigation, growing evidence of ADR's benefits, rules of professional conduct that impose an obligation to advise clients of ADR options, and the continued movement by the courts toward encouraging settlement.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED:PRETRIAL CONF/ MED: REP OF A CLIENT DURING PROCESS/  
ARB: CLIENT REP/ INST NATURE: JUSTICE SYSTEM- GENERAL/  
TYPE OFSOURCE: CASE STUDY/RESEARCH REPORT/  
SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS:  
STATUTORY OR RULES/ COURT REFORM/ ROLE OF LAWYERS.

**Geller, Paul J.** "When the Walls Come Crumbling Down: A call for ADR in the CIC (Common Interest Community)". Construction Lawyer; January, 1993; 13(1): pp. 12-24.

Article discusses the developing body of common interest law and the perception that it is made up primarily of litigious, acrimonious exchanges between developers, unit owners, associations, and the like. Author asserts that because the basis of a community association is the concept of sharing, team work, and communication, this new area of the law should embrace the team-work type methods of ADR.

INST NATURE: GENERAL/ SUBJ MATTER: CONSTRUCTION/  
ECONOMIC ADVANTAGES OF ADR.

**Genn, Hazel.** "Tribunals and Informal Justice" (United Kingdom). Modern Law Review; May, 1993; 56(3): pp. 393-411.

Article discusses an empirical study of the procedures, decision-making processes, and outcomes of informal tribunals. Author identifies four types of informal tribunals which have dealt with welfare benefits, immigration

disputes, employment disputes, and detention under mental health legislation. Author considers whether procedural informality represents a benefit or potential trap for tribunal applicants.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

**Gerber, Rudolph J..** "Who Cares?' Maybe We've No One to Blame But Ourselves (need for lawyers to address the flaws in the administration of justice)". ABA Journal; January, 1993; 79: p. 112.

Article discusses flaws in the practice of law and offers possible reforms. Author argues that disputes in family law could be handled more efficiently and humanely through mediation rather than through an adversarial system.

INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COURT REFORM.

**Gerhart, Paul F. and Donald P. Crane.** "Wrongful Dismissal: Arbitration and the law". Arbitration Journal; June, 1993; 48(2): pp. 56-68.

Article suggests legislated arbitration is the proper forum for wrongful dismissal adjudication, especially in light of the uncertainty about employer/employee rights caused by the gradual judicial erosion of the "employment-at-will" doctrine.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION.

**Gilardi, Ronald L..** "The Managerial Employee Concept in Canadian and American Labor Law: A comparative analysis". Labor Law Journal; January, 1993; 44(1): pp. 156-63.

Article provides a comparison of the collective bargaining processes in the United States and Canada. Author attempts to pinpoint the similarities and explain the differences found between the two countries.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS: CROSS-CULTURAL.

**Gillette, Michele R. and John Turro.** "Richardson Focuses on Foreign Tax Credits, Transfer Pricing (IRS Commissioner Margaret Richardson)". Tax Notes; December 27, 1993; 61(13): pp. 1547-48.

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Article discusses the Internal Revenue Service's (IRS) continued emphasis on the use of ADR methods.'

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX.

**Glass, Amy L. and Carol VanAuken-Haight.** "Offering ADR to Clients" (Alternative Dispute Resolution). Michigan Bar Journal; October, 1993; 72(10): pp.1042-45.

Article discusses the role of the attorney in ADR. Author highlights client benefits, practical ADR applications, and provides general definitions of arbitration and mediation.

MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: CLIENT REP/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: TRAINING/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE.

**Glasser, Cyril.** "Civil Procedure and the Lawyers - The Adversary System and the Decline of the Orality Principle" (United Kingdom). Modern Law Review; May, 1993; 56(3): pp. 307-24.

Author discusses the possibility that a modern approach to dispute resolution will require considerable adaptation, and even rejection, of existing procedural forms in order to provide adequate mechanisms for the determination of civil claims.

INST NATURE: JUSTICE SYSTEM- GENERAL/ COMPARISONS: HISTORICAL/ COURT REFORM/ PROVISIONAL REMEDIES/ SUBJ MATTER: GENERAL

**Glasser, Cyril and Simon Roberts.** "Introduction (Dispute Resolution: Civil Justice and Its Alternatives)". Modern Law Review; May, 1993; 56(3): pp. 277-81.

Article written as the introduction to a special volume on the workshop entitled "Dispute Resolution: Civil Justice and its Alternatives." Authors give a broad discussion of the areas of contemporary ADR that will be addressed including an overview of articles included in the edition.

SUBJ MATTER: GENERAL.

**Glode, Mark L. and Beverly Nelson Glode.** "Transboundary Pollution: Acid rain and United States-Canadian relations". Boston College Environmental Affairs Law Review; April, 1993 - Fall; 20(1): pp. 1-35.

Article analyzes the nature, sources, and effects of acid rain and international attempts to cope with it. Particular consideration is given to the impact acid rain has had upon relations between the United States and Canada. Author discusses various conceptions of sovereignty and the need for an innovative bilateral solution.

SUBJ MATTER: INT'L/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T.

**Golann, Dwight.** "Consumer Financial Services Litigation: Major judgments and ADR responses". Business Lawyer; May, 1993; 48(3): pp. 1141-49.

Article discusses major banks' responses to numerous multi-million dollar class action judgments. Many major banks have adopted alternative dispute resolution programs. These programs involve multi-stage ADR processes. The result of these processes is binding on all parties.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL.

**Goldstein, Steven B.** "Protecting Employee Rights in Successorship". Labor Law Journal; January 1993; 44(1): pp. 18-29.

Article explores the options available to an employee when an employer sells the business prior to rectifying unfair labor practices by detailing the National Labor Relation Board's rules that are designed to protect the employee and reconcile competing interest between labor and management.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION.

**Golub, Alan S.** "The Exception of Noerr-Pennington Materials From Discovery Under the Petition Clause of the First Amendment (privileged activities connected to businesses' lobbying efforts)". St. John's Law Review; January, 1993 - Winter; 66(4): pp. 1095-108.

Article outlines the methods and circumstances under which discovery of Noerr-Pennington materials will be allowed. Past history, current law, and potential development of the Noerr-Pennington doctrine are discussed.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE/ SUBPOENA AND DISCOVERY.

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**Goodpaster, Gary.** "Rational Decision-Making in Problem-Solving Negotiation: Compromise, interest valuation, and cognitive error". Ohio State Journal on Dispute Resolution; 1993; 8(2): pp. 299-360.

Reviews problem-solving model of negotiation. Examines how to conceptualize compromise and trade-offs in problem solving negotiations. Addresses questions of how negotiating parties can discover what their differences are and how they can go about waiving those differences. Provides discussion of human cognitive processes that impair rational decision making in negotiation.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS.

**Gottenberg, Erika F.** "The Americans with Disabilities Act: Erosion of collective rights?". Berkeley Journal of Employment and Labor Law; June 22, 1993 - Summer; 14(1): pp. 179-89.

Article examines the effect that the ADA's reasonable accommodation requirement will have on collective bargaining and, specifically, on the collective rights of a union. Author provides recommendations on how unions and employers in the 1990s can successfully bridge the gap that disabled workers have long braved, while continuing to maintain the power of collective rights.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Graham, Louse Everett.** "Implementing Custody Mediation in Family Court: Some comments on the Jefferson County Family Court experience". Kentucky Law Journal; June 22, 1993; 81(4): pp. 1107-31.

Author describes how one community has implemented a court-annexed mediation program. Program can serve as a blueprint for a system's structure, as well as a model for the process of implementing such a program. Article includes a flow chart diagramming the divorce mediation process.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/POWER IMBALANCE.

**Gray, H. Peter.** "The Case for a Damage-control Strategy in Trade Negotiations". Journal of World Trade (Law-Economics- Public Policy); October, 1993; 27(5): pp. 37-47.

Author argues that because of increasing economic interdependence among nations and the complexity of the global economic system, the GATT approach toward free trade should be re-examined. Article advocates that a freely-open system should be attempted by gradually phasing out protective devices.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L..

**Green, Eric D.** "Voluntary ADR: Part of the solution". Trial; April, 1993; 29(4): pp. 35-39.

Article discusses the rise of ADR during the past decade. Author discusses mandatory ADR and suggests that, from a public policy standpoint, voluntary ADR is preferable.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: HISTORICAL.

**Greenbaum, Edwin H.** "Lawyers' Agenda for Understanding Alternative Dispute Resolution" (Symposium on the Future of the Law). Indiana Law Journal; June 22, 1993 - Summer; 68(3): pp. 771-89.

Author traces the evolution of alternative dispute resolution, discusses major categories of dispute resolution methods, how these methods should be chosen, and comments on the future of alternative dispute resolution.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB: BINDING ARB-GENERAL/ INST NATURE: GENERAL/ DISPUTE PREVENTION.

**Greene, John W.** "Mediation in Domestic Court: A conciliatory approach". Louisiana Bar Journal; October, 1993; 41(3): pp. 213-15.

Article discusses how parties to domestic disputes feel less coercion and greater empowerment in mediation than do parties litigating their dispute in a formal courtroom.

MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS.

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**Grinstead, Kenneth.** "The Arbitration of Last Chance Agreements". Arbitration Journal; March, 1993; 48(1): pp. 71-78.

Article describes the increasingly common use of "last chance" agreements or grievance settlements between employers, unions, and employees facing discharge or other disciplinary action. Author explains that issues related to these agreements are subject to further arbitration.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB:  
SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL/  
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Guicher, Catherine.** "The Hour of Europe: Lessons from the Yugoslav Conflict". The Fletcher Forum of World Affairs; June 22, 1993 - Summer; 17(2): pp. 159-81.

Using the Yugoslav conflict as a case study, author points out the factors that contribute to ineffective action.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: INT'L/  
TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

**Guthrie, Arthur A.** "Tax Practice and Accounting: Adapting to a changing landscape". Tax Notes; January 4, 1993; 58(1): pp. 23-24.

Briefly describes the ALI-ABA seminar led by Professor Charles B. Craver of George Washington University on "Effective Legal Negotiation and Settlement," held in Chicago on March 26 and 27, 1992.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ  
MATTER: TAX.

**Haight, H. Kevin.** "Michigan Mediation Under MCR 2.403: ADR that works". Michigan Bar Journal; October, 1993; 72(10): pp. 1018-20.

Author explains Michigan's Court Rule 2.403, analyzes the rule's performance, and argues that the system is Michigan's most effective ADR technique in use.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY  
DIALOGUE/ MED: PUBLIC POLICY DIALOGUE/ ARB: MANDATORY,  
COURT-ANNEXED-GENERAL/ REQUIREMENTS: STATUTORY OR  
RULES/ ECONOMIC ADVANTAGES OF ADR.

Hale, Kathryn L. "Nonbinding Arbitration: An oxymoron?". The University of Toledo Law Review; March 22, 1993 - Summer; 24(4): pp. 1003-26.

Author examines the impact of Schaefer v. Allstate, a 1992 Supreme Court of Ohio decision on alternative dispute resolution. Article further discusses the decision's effect on Ohio's medical malpractice proceedings and questions the future of the ADR movement in Ohio.

INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: MEDICAL MALPRACTICE/ COURT REFORM/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB.

Hall, H.K. "Systems of Control in International Adjudication and Arbitration: Breakdown and Repair" (book review). Harvard International Law Journal; January, 1993 - Winter; 24(1): pp. 290-91.

Review of W. Michael Reisman's book which analyzes control systems in existing arbitration mechanisms for three types of conflicts: governmental entity vs. governmental entity, governmental entity vs. private entity, and private entity vs. private entity. Reviewer praises the book as "a very good critical overview of the control mechanisms of international arbitration systems."

MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW.

Hansen, Jim. "Conflict Resolution Evolves in Idaho: ADR processes in schools make impressive strides". Advocate (Idaho); August, 1993; 36(8): pp. 17-18.

Idaho is becoming an expert in the field of Alternative Dispute Resolution. The Conflict Management Services has sponsored innovative ideas in the area of ADR, including the use of ADR in religious communities and in public schools with at-risk youth. The success of these programs have caused other states to follow Idaho's lead.

INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: EDUCATION/ TEACHING.

Harper, Brain Koy. "Peer Mediation Programs: Teaching students alternatives to violence". Journal of Dispute Resolution; September 22, 1993 - Fall; 1993(2): pp. 323-31.

Author discusses in-school peer mediation programs that are designed to decrease violence and keep students' conflicts from reaching the level of



criminal behavior. Such programs, author explains, can help reduce student apathy and dropout rates by showing students that they are valued and respected by society at large.

MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: EDUCATION/ DISPUTE PREVENTION/ TEACHING.

**Harrison, Jeffrey L.** "Class, Personality, Contract, and Unconscionability". William and Mary Law Review; September 22, 1993 - Winter; 35(2): pp. 445-501.

Article addresses the notions of compensatory justice and the inequality among classes of our society. Author finds that inequality in our society is perpetuated by members of different classes accepting different levels of compensatory justice. This disparity in entitlements has only caused class inequality to become greater, and, to eradicate this, author believes that courts must adopt a theory of substantive unconscionability.

FAIRNESS/ POWER IMBALANCE.

**Hautzinger, James E.** "Management Perspective" (response to article by William E. Rentfro in this issue, p. 171) (Changing Values in the Workplace and Arbitration). Proceedings of the Annual Meeting of the National Academy of Arbitrators; January, 1993; 46: pp. 192-99.

Author reacts to the principal paper by discussing two values alleged to be changing in the workplace: the increase in employee participation in the National Labor Relations Board and the rights of employees which exceed those defined by the collective bargaining agreement and arise from a so-called "social contract." Author then discusses how he thinks the changes in these values will effect labor arbitration in the future.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ETHICS: GENERAL.

**Hawkins, Michael W.** "Alternative Dispute Resolution: An alternative for resolving employment litigation and disputes". Northern Kentucky Law Review; January, 1993; 20(2): pp. 493-503.

Author examines the legal and practical viability of using ADR techniques to resolve employment disputes. He concludes by arguing that employers have little to lose and much to gain by incorporating arbitration/mediation clauses into employment contracts.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER:

## EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR.

Hayford, Stephen L.. "The Coming Third Era of Labor Arbitration". Arbitration Journal; September, 1993; 48(3): pp. 8-21.

Article gives an in-depth description of: the current practice of mainline arbitrators in labor disputes, labor relations in the future and its impact on the institution of labor arbitration, and finally, what steps labor arbitrators should take now to ready themselves for the challenges in the future.

ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL.

Haynes, John M. PhD; Thelma Fisher, B.A. and Dick Greenslade, L.L.B., eds.. Alternative Dispute Resolution Fundamentals of Family Mediation, Kent: Old Bailey Press Ltd., 179 pp. (1993).

Book based on the training program 'Fundamentals of Divorce Mediation' used by the author in fourteen countries. Book provides a clear model of mediation and an understanding of the application of the theory of negotiations in the context of divorce.

Hazard, Geoffrey C.. "An Increasing Number of Federal Courts Have ADR Procedures". The National Law Journal; February 22, 1993; 15(25): p. 15.

Article discusses the increasing use of ADR methods in the American court system. Author explains that ADR procedures are more likely when the parties have a prior relationship, and that the chance of success increases if the parties will gain by continuing their relationship.

MED: RELATED PROCESSES-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/DISPUTE PREVENTION.

Heenan, Roy L. and Thomas Brady. "Management Perspective" (response to "Employees Duty of Loyalty: An arbitral-judicial comparison"). Proceedings of the Annual Meeting of the National Academy of Arbitrators; January, 1993; 46: pp. 214-27.

Author discusses the differences between the duty of loyalty of American employees and the duty of loyalty of Canadian employees in terms of two main differences: (1) due to its origins in French and British common law, the Canadian duty of loyalty is higher than the American duty, and (2) the

duty of loyalty has been imposed by the Canadian courts, but reluctantly followed in Canada by arbitrators. The paper includes analysis of Canadian case law and Labor Relations tribunal decisions.

ARB: BINDING ARB- GENERAL/ COMPARISONS: CROSS-CULTURAL/JUDICIAL PARTICIPATION.

**Heidemann, Craig Richard.** "Class Action Settlement Bars, Cross Claims, and Co-defendants: The search for a uniform standard". Journal of Dispute Resolution; March 22, 1993; 1993(1): pp. 233-48.

Article examines the imposition of settlement bars in cases in which all of the defendants wish to settle the matter. Specifically, author considers the In re U.S. Oil & Gas litigation in which the court dealt with the imposition of a settlement bar and upheld it.

SETTLEMENT: AUTHORITY.

**Heidemann, Craig R.** "Connecticut's Trial by Lawyer: Contract disputes and the attorney fact-finder". Journal of Dispute Resolution; September 22, 1993 - Fall; 1993(2): pp. 349-58.

Article describes Connecticut's attorney fact-finder program and advocates its use in other states.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ INST NATURE: JUSTICE SYSTEM- OTHER/ ECONOMIC ADVANTAGES OF ADR.

**Heller, Ellen M.** "ADR Alternative in Baltimore City". The Maryland Bar Journal; September, 1993; 26(5): pp. 13-16.

Article provides a brief overview of the pilot civil mediation program in Baltimore.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ECONOMIC ADVANTAGES OF ADR/ COURT REFORM.

**Henderson, James E.** "Tears of Joy: The satisfaction of win/win bargaining". Journal of Collective Negotiations in the Public Sector; September 22, 1993; 22(4): pp. 313-21.

Author argues for the adoption of collaborative bargaining in the context of labor disputes involving teachers and school boards. This "win/win" approach is especially applicable here, he argues, because of major decreases in school funding and the bargaining problems attendant to this. Author

gives examples of collaborative bargaining by relating events that transpired during his tenure as a school superintendent.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/NEG: TACTICS, STRATEGIES AND TECHNIQUES-COOP TECHNIQUES/INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Hendrick, David R., Victoria H. Tobin, and Christopher B. Cashen.** "Definition and Certification of 'Claims' on Federal Public Works Under the Contract Disputes Act: Smoothing out the rocky road to recovery". Construction Lawyer; January, 1993; 13(2): pp. 1-18.

Article describes the history and subsequent problems of the Contract Disputes Act of 1978. Author highlights congressional and judicial attempts at recognizing continuing shortcomings and at making suggestions to avoid still existing problems.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: GOV'T/ SUBJ MATTER: GOV'T CONTRACTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

**Henry, James F..** "Bypassing Courtrooms is Pattern of the Future; Lawyers Must Lead the Way or Lose Control". National Law Journal; November 29, 1993; 16(13): p. S10-11.

Author describes the increased prevalence of ADR in the United States. He predicts the trend will continue, and therefore lawyers will need to become more familiar with it.

ROLE OF LAWYERS/ COURT REFORM.

**Hepburn, Samantha.** "Natural Justice and Commercial Arbitration" (Australia). Australian Business Law Review; February, 1993; 21(1): pp. 43-51.

Author argues that private arbitration agreements generally secure natural justice and that the application of the formal Rules of Court to arbitration proceedings would unduly intrude upon the parties' freedom to contract while yielding only marginal benefits.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL.

**Heraclides Alexis.** Helsinki-II and Its Aftermath: The Making of CSCE into an International Organization. NY: St. Martin's Press, 274 pp. (1993).

Heraclides, an assistant professor of foreign policy at Panteon University in Athens, writes about the Conference on Security and Cooperation in Europe (CSCE), Helsinki-I, its past accomplishments, and the future of CSCE in light of the continual changes in the political makeup of Europe since the end of the Cold War. Author believes that in the post-Cold War age CSCE will become a more active organization in handling East-West conflicts in Europe.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/  
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ  
MATTER: CIVIL RIGHTS.

**Heshizer, Brian.** "The Memphis Sanitation Workers Strike of 1968". Journal of Collective Negotiations in the Public Sector; March 22, 1993 - Spring, 22(2): pp. 99-118.

Author presents a general history of the sixty-four day sanitation worker strike in Memphis in 1968. Setting forth the racial factors that affected the attempts at resolving the labor dispute, article creates an overview of the circumstances that combined to end the strike.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST  
NATURE: GOV'T ENTITIES/ INST NATURE: RELIGIOUS  
ORGANIZATIONS/ SUBJ MATTER: LABOR-GENERAL/ / SUBJ  
MATTER: LABOR-DISCRIMINATION/ POWER IMBALANCE.

**Hill, Robert L.** "Advancing Justice: Introducing IADC's nat'l pre-suit mediation program". Defense Counsel Journal; July, 1993; 60(3): pp. 439-42.

Author summarizes the dilemmas faced by the traditional civil justice system to conclude that some form of alternative dispute resolution must begin to play a central role in these cases. The National Pre-Suit Mediation Program, established by the International Association of Defense Counsel is then presented as a positive option for plaintiff and defendant tort litigants involved in insurance related disputes.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY  
DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ INST  
NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: INSURANCE/  
SUBJ MATTER: OTHER TORTS/ QUALITY CONTROL.

Hinshaw, S'Lee Arthur, II. "Juvenile Diversion: An alternative to juvenile court". Journal of Dispute Resolution; September 22, 1993 - Fall; 1993(2): pp. 305-21.

Article discusses alternatives intended to divert juveniles from the juvenile court system. It acknowledges that there may be due process problems which should be addressed, but advocates diversion programs because of their success.

INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: PUBLIC POLICY/JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS.

Hoellering, Michael F. "80 Commercial Arbitration Organizations: Global federation serves growing need for arbitration" (International Federation of Commercial Arbitration Institutions). Arbitration Journal; June, 1993; 48(2): pp. 72-76.

Article discusses the creation and purposes of the International Federation of Commercial Arbitration Institutions, which include establishing and improving permanent relations among commercial arbitration entities.

MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L.

Hogan, Joseph C., III. "The Presumption of Arbitrability as Applied to Last Chance Agreements". Boston College Law Review; March, 1993; 34(2): pp. 326-34.

Article discusses probationary contracts between an employer and an employee who faces removal or discipline for poor performance ("last chance" agreements). Author examines United Steelworkers of America v. Lukens Steel, a 1992 case which considered the extent to which last chance agreements excluded certain issues from arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

Holiday, David and William Stanley. "Building the Peace: Preliminary lessons from El Salvador" (Keeping the Peace: Conflict resolution in the twenty-first century). Journal of International Affairs; January, 1993 - Winter; 46(2): pp. 415-38.

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Authors discuss the role of the United Nations in future international conflict resolution and consensus building.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL.

**Horlick, Gary N. and Amanda F. DeBusk.** "Dispute Resolution Under NAFTA: Building on the U.S. - Canada FTA, GATT and ICSID" (North American Free Trade Agreement, Convention on the Settlement of Investment Disputes). Journal of World Trade (Law-Economics-Public Policy); February, 1993; 27(1): pp. 21-41.

Article analyzes the dispute resolution processes established under the North American Free Trade Agreement (NAFTA). Article focuses on the three dispute resolution mechanisms most fully elaborated in NAFTA: the Chapter 11 mechanism for resolving disputes between a party and an investor in another party; the Chapter 19 mechanisms for resolving disputes under the antidumping and countervailing duty laws; and the Chapter 20 mechanism for resolving disputes among the parties.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: INT'L.

**Horn, Laura.** "The Role of Mediation in International Environmental Law". Australian Dispute Resolution Journal; February, 1993; 4(1): pp. 16-33.

Article discusses mediation models and alternative methods of dispute resolution that have the potential to resolve international environmental disputes. Article also emphasizes the advantages of public mediation in regard to resolving policy disputes and establishing an international legal framework for environmental law.

NEG: CULTURAL CONSIDERATIONS/ MED: RELATED PROCESSES- GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L.

**Horvath, Eva.** "Arbitration in Hungary: The problematics of the Moscow Convention". Journal of International Arbitration; March, 1993; 10(1): pp. 17-24.

Author examines international arbitration in Hungary. Article is both an historical review of arbitration in Hungary and an exploration of the new developments in arbitration as market mechanisms develop in Hungary.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/COMPARISONS: HISTORICAL/ COURT REFORM.

**Horvath, Vivian and Stephen Cretney.** "Re D (Minors)" (communications with psychologist presented as evidence in custody case) (United Kingdom). Family Law; July, 1993; 23: pp. 410-11.

Synopsis of a British case establishing that psychologist-conciliation meetings with divorcing parents in custody cases are privileged.

INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ CONFIDENTIALITY.

**House, Nancy Cornelius.** "Managment Perspective" (mediating grievances). Proceeding of the annual meeting of the National Academy of Arbitrators; January, 1993; 46: pp. 89-95.

Author describes her experience in working out the details of the process for an experimental grievance mediation program at AT&T. Article goes over the typical mediation conference, the strengths and weaknesses of the grievance mediation process, and the results of AT&T's trial run with the program.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CORPORATE.

**Howard, William M.** "The Evolution of Contractually Mandated Arbitration". Arbitration Journal; September, 1993; 48(3): pp.27-38.

Article gives a general overview of the history of contractually mandated predispute arbitration, from its beginning in England's 14th century merchant economy to its present day pervasive use in the U.S. securities industry.

ARB: JUDICIAL REVIEW/ COMPARISONS: HISTORICAL/ COURT REFORM.

**Hudec, Robert E.** "Circumventing Democracy: The political morality of trade negotiations". New York University Journal of International Law and Politics; January, 1993 - Winter; 25(2): pp. 311-22.

Article analyzes the issue of whether the process of negotiating international agreements is less subject to public scrutiny, and therefore a threat to democratic accountability (i.e., whether trade liberalization is in part a strategy for circumventing domestic health and welfare regulations normally adopted by the legislative route). Author concludes that there is actually more democracy to be achieved in making the international negotiating



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process work to the satisfaction of contending interest than there is in the ordinary process of legislation.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: INT'L/ LEGISLATION.

**Hummel, Denise L.** "Anatomy of an ADA Case". Employee Relations Law Journal; June 22, 1993; 19(1): pp 103-16.

Article covers plaintiff and defense strategies in the context of an Americans with Disabilities Act (ADA) case and is intended to serve as a ready reference to employer's counsel when faced with ADA litigation.

SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

**Humphreys, Gordon.** "Trading Places: The need for reform in international trade dispute resolution". International Business Lawyer; March, 1993; 21(4): pp. 174-76.

Article discusses the widespread dissatisfaction with current national law in an international trade context, and the possibility of arbitration as a means of settlement in international trade disputes. Specifically, author discusses the advantages and disadvantages of arbitration in this context and examines the principle of "lex mercatoria" as a potential solution.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT'L.

**Hundley, Greg.** "Collective Bargaining Coverage of Union Members and Nonmembers in the Public Sector". Industrial Relations; January, 1993 - Winter; 32(1): pp. 72-93.

Author evaluates the interrelationship of membership status and wages for workers not covered by collective bargaining agreements, covered non-union workers, and covered union members.

NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Hunter, Jerry M.** "Potential Conflicts Between Obligations Imposed on Employers and Unions by the National Labor Relations Act and the Americans with Disabilities Act" (Symposium: Major issues for collective bargaining in the nineties). Northern Illinois University Law Review; March 22, 1993 - Spring; 13(2): pp. 207-19.

Paper succinctly outlines potential conflicts existing between the Americans with Disabilities Act and the National Labor Relations Act.

SUBJ MATTER: LABOR-GENERAL/ LEGISLATION.

**Hunter, Martin.** "Commentary on the Unicitral Arbitration Rules: The application by the Iran-US Claims Tribunal" (book review). International Business Lawyer; January, 1993; 21(1): p. 43.

Book serves as a guide to how the UNICITRAL Rules should be applied by referencing to the application during the Iran-US Claims Tribunal, which resulted in the release of the hostages from Tehran. This book should provide useful to international arbitrators who will have to utilize the UNICITRAL.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ TEACHING.

**Hunter, Ted.** "ADR Comes of Age". Washington State Bar News; March, 1993; 47(4): p. 9.

Article is a general overview of this issue devoted to ADR. Author claims that mediation is the ADR technique of choice among ADR experts and states reasons why this is true.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES.

**Huntington, David S.** "Settling Disputes Under the North American Free Trade Agreement". Harvard International Law Journal; March 22, 1993 - Spring; 34(2): pp. 407-43.

Article examines the elaborate dispute resolution system of NAFTA to expose its negotiation, mediation, and arbitration elements in light of legalism and pragmatism theories.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

**Hylton, Keith.** "Assymmetric Information and the Selection of Disputes for Litigation". Journal of Legal Studies; January, 1993; 22(1): pp. 187-210.

Author explores the standard theoretical approach to explain why claimants choose to litigate over settlement by presenting a mathematical formula to attempt to rationally predict trial outcomes.

**Hyman, Jonathan and Milton Heumann.** "Civil Settlements in New Jersey: A study". New Jersey Law Journal; August 16, 1993; 134(16): pp. S18-S21.

Article summarizes the preliminary findings of a study of the opinions and attitudes toward civil settlements in New Jersey. Results show that most lawyers and judges want cases settled sooner and want an increase in the use of problem solving methods. Authors stress that to attain these goals, practitioners must fully utilize problem-solving techniques.

INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS/ ROLE OF LAWYERS.

**Ide, William R., III.** "Summoning Our Resolve: Alternative dispute resolution aims for settlement without litigation". ABA Journal; October, 1993; 79: p. 8.

Editorial discusses the benefits of alternative dispute resolution.

ARB: MANDATORY, COURT-ANNEXED- GENERAL.

**Ingleby, Richard.** "Court Sponsored Mediation: The case against mandatory participation". (Australia). Modern Law Review; May, 1993; 56(3): pp. 441-51.

Author advises that arguments in favor of voluntary mediation should be treated with caution. He suggests that there are three strong arguments against compulsory participation in mediation: definitional arguments, lack of jurisdiction, and rule of law.

MED: RELATED PROCESSES-GENERAL/MED: PUBLIC POLICY DIALOGUE/ INST NATURE: JUSTICE SYSTEM-GENERAL/REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ SUBJ MATTER: GENERAL.

**Ingram, Helen, David R. White, C. Richard Bath, Peg Rogers, and Neil Fulton.** "International Boundary and Water Commission: An institutional mismatch for resolving transboundary water problems". Natural Resources Journal; January, 1993 - Winter; 33(1): pp. 153-200.

Article criticizes the IBWC for environmental insensitivity, low visibility, and high-handedness in dealing with transboundary water disputes. Article reviews scholarly and professional evaluation of the IBWC and evaluates the IBWC's record in recent disputes.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/  
SUBJ MATTER: MARITIME.

Irvine, Mori. "Mediation: Is it appropriate for sexual harassment grievances?". Ohio State Journal on Dispute Resolution; September 22, 1993 - Fall; 9(1): pp. 27-53.

Author posits that mediation is inappropriate in sexual harassment grievance cases because of the imbalance of power between the batterer and the victim and claims that arbitration is more appropriate.

MED: PSYCH FACTORS/ SUBJ MATTER: LABOR-DISCRIMINATION/  
POWER IMBALANCE/ SELECTION OF APPROPRIATE PROCESS.

Jackson, Craig L.. "GATT and Conflict Management: A transatlantic strategy for a stronger regime" (book review). American Journal of International Law; January, 1993; 87(1): pp. 181-83.

Author suggests that the preservation of liberal trade can occur with the formation of a management team which may consist of the United States, Japan, and the European Community. Author further proposes that a hegemony in world trade between the United States and the European Communities is an option which would serve as an example of bilateral trade relations to the rest of the trade world.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: INT'L.

Jaffe, Sanford. "ADR Captures the Court's Imagination". New Jersey Law Journal; August 16, 1993; 134(16): pp. S2-S5.

Article identifies the emerging issues in the relationship between dispute resolution and the formal justice system. Author focuses on the implication for the future of ADR techniques such as STA-FED, mediation, and rent-a-judge programs and considers their effect on the court system.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ INST NATURE:  
JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ ROLE OF  
LAWYERS/ RELATION TO ONGOING LITIGATION.

Jager, Steven J.. "Mediation is Only as Good as the Mediator". Washington State Bar News; March, 1993; 47(3): p. 59.

Author claims that a successful binding mediation program depends on the dedication of the mediator and that realistically, most mediators are not dedicated enough to meet the high demands of such a unique program.

Author then gives suggestions for watering down the arbitration aspect of a binding mediation program.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ ARB: BINDING ARB-GENERAL.

Jett, Wayne. "Job Creation Through Collective Bargaining: The preferred alternative to government regulations". Labor Law Journal; December, 1993; 44(12): pp. 742-54.

Article examines why companies in the U.S. are divorcing themselves from traditional long term employment and instead are using temporary, part-time, and contract employees. The author concludes that this is the result of over-regulation by the government and that this problem can be rectified by restoring the companies' and unions' discretion to bargain.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Johnson, Ralph A.. Negotiation Basics: Concepts, Skills, and Exercises. Newbury Park, Cal.: Sage Publications, Inc., 167 pp. (1993).

The overall objectives of this book are to demonstrate how negotiation works, to outline options and procedure for negotiation preparation, to identify the common negotiating problems and deficiencies, and to show how skill-building can be integrated into preparation for negotiation. The book advises on ways to achieve success in negotiating from both a theoretical and practical perspective. Author provides practical exercises drawn from every day negotiating problems for the purpose of simulating the experiences related to the chapter topics.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: PSYCH CONSIDERATIONS.

Jones, Elizabeth. "A Real Alternative? ADR Appraised". (United Kingdom). Solicitors Journal; April 23, 1993; 137(15): pp. 378-79.

Author discusses ADR's growing attractiveness to certain litigants, especially those desiring swift settlements and lowered costs, in light of the over-burdened court system in the United Kingdom and hypothesizes on the lack of government funding of ADR. Mediation, conciliation, and arbitration are also briefly explained.

MED: RELATED PROCESSES-GENERAL/ NON-BINDING  
 RECOMMENDATION PROC- MINI-TRIAL/ INST NATURE: JUSTICE  
 SYSTEM- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-  
 PROFIT/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ  
 MATTER: CONSTRUCTION/ SUBJ MATTER: INT'L.

Jones, Gordon M., III. "Bad Faith Negotiations and Unfair Trade Acts: New rules for corporate courtship" (Massachusetts Supreme Judicial Court Annual Review). Boston Bar Journal; January, 1993; 37(1): pp. 15-18.

Author considers the difficult position of a plaintiff bringing an action for breach in regard to an agreement to negotiate in good faith and examines the reluctance of Massachusetts courts to infringe on commercial self-interest in the corporate context.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/  
 NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/  
 NEG: W/OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY.

Jorgensen, Ann Brackley. "Obligation of an Arbitrator" (Illinois). CBA Record; January, 1993; 7(2): pp. 13-15.

Article proposes that two essential requirements must be present in every successful arbitration hearing. First, the litigants must have absolute faith in the impartiality and diligence of the panel before whom they appear. Secondly, they must firmly believe that they have received a fair, full hearing on all claims for relief. In so asserting, the author examines how the Illinois Code of Judicial Conduct and the Illinois Supreme Court Rules go about ensuring that arbitrators meet the above obligations.

ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB:  
 JUDICIAL REVIEW/ REQUIREMENTS: STATUTORY OR RULES.

Kagel, John. "Mediating Grievances". Proceedings of the annual meeting of the National Academy of Arbitrators; January, 1993; 46: pp. 76-89.

Author begins from the premise that arbitrators mediate grievances, and he attempts to provide instruction to arbitrators on how to do so properly. The article serves three purposes: (1) to describe the circumstances under which arbitrators mediate grievances, (2) to discuss a checklist of appropriate practices to use in mediating generally, and (3) to determine whether there are particular practices that should not be used depending on the type of mediation that is occurring.

MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,  
 COURT- ANNEXED- GENERAL.

**Kall, David M.** "The United States' Double Standard Regarding Domestic Enforcement of International Arbitration Awards". Ohio State Journal on Dispute Resolution, March 22, 1993 - Spring; 8(2): pp. 401-24.

Article discusses whether an arbitration award arising out of a controversy between a United States citizen or corporation and a foreign citizen or corporation will be regarded as a domestic award under United States law. Author argues that the courts treat awards differently depending on which side of the award the U.S. is on so as to protect national interests by making awards favorable to the U.S. easier to enforce and those unfavorable to the U.S. easier to overturn or vacate.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ  
MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT  
OR AWARD.

**Kanfer, Dana Solin.** "No Need to Sit Around the Bargaining Table: Florida Supreme Court approves suspicion-based drug testing of police officers". Stetson Law Review; September 22, 1993 - Fall; 23(1): pp. 237-67.

Author analyzes a recent Florida Supreme Court decision that held a police department's mandatory drug testing program is not subject to mandatory collective bargaining. Author states that the result was proper, but that courts following this case must take care not to extend the holding to situations that do not involve a "government interest of the highest order".

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/  
ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND  
ENFORCING AGREEMENT TO ARB/ INST NATURE: GOV'T  
ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: GOV'T  
CONTRACTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS:  
CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR  
RULES/ COMPLIANCE ISSUES.

**Karim, Ahmad R.** "Arbitrator Considerations in Modifying Discharge Decisions in the Public Sector". Journal of Collective Negotiations in the Public Sector; June 22, 1993 - Summer; 22(3): pp. 245-51.

Author presents a study of the determinant factors influencing arbitral findings in employee discharge cases. Study reveals that an employee's prior work record, arbitrary management action, and mitigating circumstances are significantly important to arbitrators. He argues that this disproves the contention that arbitrators are inconsistent in their rulings in this context.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Karim, Ahmad R. and Syed M. Ali. "Demographic Differences and Faculty Attitude Toward Collective Bargaining". Journal of Collective Negotiations in the Public Sector; January, 1993; 22(1): pp. 87-97.

Article examines a study, done at an Indiana university, on the impact of demographic variables on faculty attitudes toward four major types of bargaining issues: personnel, governance, compensation, and academic standards. Author identifies the existence of differing opinions toward collective bargaining according to differences in gender, income, tenure status, and rank.

SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL.

Karmel, Roberta S.. "Is the SEC Ready for ADR and Reg-neg?". New York Law Journal; April 15, 1993; 209(71): p. 3.

Article discusses how the Administrative Dispute Resolution Act will impact negotiations with the Securities and Exchange Commission, especially in the area of enforcement. Article explains why the SEC is reluctant to use ADR in enforcement proceedings. Concludes that ADR and reg-neg hold promise for shortening the length of enforcement proceedings.

SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES.

Karrass, Chester L.. Give & Take: The Complete Guide To Negotiating Strategies & Tactics; NY: Harper Busn. Pub., 20 pp. (1993).

Author draws upon modern psychology and business experience to present a practical guide to negotiation strategies. Book offers concise and sometimes anecdotal suggestions for working negotiators through a specific problem structure. Brief attention is also given to mediation and arbitration in terms of their potential impact on negotiations.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: PSYCH CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL.



**Katsoris, Constantine N.** "Punitive Damages in Securities Arbitration: The Tower of Babel revisited". (from Fordham Urban Law Journal). Securities Law Review; January 1993 - Annual; 18: p. 573.

Author gives historical information concerning the role of punitive damages in the area of securities arbitration. The discussion deals with whether non-judicial arbitrators should be allowed to administer punitive damages in securities claims. Further, author advocates the use of punitive damages in securities claims in order to restore the claimant's confidence when choosing arbitration over litigation.

ARB: MANDATORY, COURT-ANNEXED- FINANCIAL  
DISINCENTIVES/ ARB: JUDICIAL REVIEW/ SUBJ MATTER:  
SECURITIES.

**Katz, Harold.** "Filling the Court-Created Gap in the Protection of Concerted Activities: The need for striker replacement legislation in the promotion of constructive collective bargaining" (Symposium: Major issues for collective bargaining in the nineties). Northern Illinois University Law Review; March 22, 1993 - Spring; 13(2): pp. 247-62.

After briefly tracing the history of the court system's role in labor relations and examining the legislative history of striker protections, author focuses on the need to rethink collective bargaining in the nineties. Author also contends that job protection for striking workers ultimately will make American industry more competitive.

LEGISLATION/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT  
(NON-UNIONS).

**Katz, Lucy V.** "Compulsory Alternative Dispute Resolution and Voluntarism: Two-headed monster or two sides of a coin?". Journal of Dispute Resolution; January, 1993 - Spring; 1993(1): pp. 1-55.

Article provides an overview of contemporary ADR, focusing on the extent to which compulsory ADR is used in the courts. Article discusses constitutional, statutory, and policy issues and concludes that ADR should be voluntary rather than compulsory.

MED: PUBLIC POLICY DIALOGUE/ ARB: PREPARATION.

**Kearney, Robert A.** "Arbitral Practice and Purpose in Employee Off-duty Misconduct Cases". Notre Dame Law Review; September, 1993; 69(1): pp. 135-56.

Article focuses on the strong influence of criminal court decisions on the arbitration of employee off-duty misconduct cases. Author explains this strong influence poses a danger because of the different purposes of the criminal courts and arbitration, the differing standards of proof, and the resulting inconsistencies.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: CRIMINAL/ JUDICIAL PARTICIPATION.

Keefe, Richard E. and Warren J. Rheaume. "Predispute Planning for Business". Washington State Bar News; April, 1993; 47(4): pp. 17-18.

Authors give a five-step planning process and three different methods of dispute resolution to be used in predispute planning for business. Authors stress the importance of a deadline in reaching settlements and also give suggestions for what needs to be included in an effective arbitration clause.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: CORPORATE/ DISPUTE PREVENTION/ SETTLEMENT: PRESSURES TO SETTLE/ SELECTION OF APPROPRIATE PROCESS.

Kelly, David St. L.. "Recent Developments in Dispute Resolution and Dispute Avoidance". Insurance Law Journal; February, 1993; 5(2): pp. 101-09.

Article discusses methods developed by the insurance industry to resolve disputes. Article also addresses initiatives that have been developed by the industry to avoid disputes among insurers and the insured.

SUBJ MATTER: INSURANCE.

Kennedy, John L.. "Financing for Medical Malpractice Conciliation Program Shot Down". Pennsylvania Law Journal; October 11, 1993; 16(39): p. 6.

Article discusses the history of medical malpractice conciliation panels designed to reduce court costs relative to medical malpractice suits. Such arbitration programs have not, however, proven successful in expediting suits or lowering costs.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: MEDICAL MALPRACTICE/ ECONOMIC ADVANTAGES OF ADR.

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**Kennedy, Kevin C.** "The Model Law on International Commercial Arbitration: It's time for Michigan to adopt it". Michigan Bar Journal; February, 1993; 72(2): pp. 192-96.

In light of the Canada-U.S. Free Trade Agreement, which should significantly increase trade and investment flows between the U.S. and Canada, interest in and demand for private dispute resolution will be heightened. Article discusses three reasons the state of Michigan legislature should give consideration to enacting legislation which provides specifically for international commercial arbitration.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L.

**Kerwin, Kristina M.** "The Discoverability of Settlement and ADR Communications: Federal Rule of Evidence 408 and beyond". The Review of Litigation; June 22, 1993 - Summer; 12(3): pp. 665-85.

Author contends that Federal Rule of Evidence 408 does not adequately promote candor in settlement and ADR proceedings because, while Rule 408 limits the admissibility of settlement information, the rule does not clearly protect settlement information from discovery, which could lead an adversary to discover other, admissible evidence of which they would otherwise be unaware.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ CONFIDENTIALITY/ RELATION TO ONGOING LITIGATION.

**Kettl, Donald F.** Sharing Power: Public Governance and Private Markets. Washington D.C.: The Brookings Institute, 219 pp. (1993).

Book addresses how the Government may learn to effectively negotiate with the private sector. Author advocates that the Government become a 'smart buyer' able to define what it needs, identify the manner by which to get it, and competently evaluate what it receives.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL.

**Khoo, Eugene.** "Negotiations in Malaysia". Australian Dispute Resolution Journal; January, 1993; 4(2): pp. 93-98.

Article outlines the emphasis that Malaysian culture places on mediation and avoiding the court system. Author describes the society as class conscious and hierarchal, and discusses how these traits affect commercial negotiations and agreements.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L.

Kilroy, W. Terrence and Adam P. Sachs. "Arbitrating Employment Disputes: Greener pastures for employers?". The Journal of the Kansas Bar Association; April, 1993; 62(3): pp. 32-37.

Authors state that the passing of the Civil Rights Act of 1991 and the 1991 decision in Gilmer v. Interstate Johnson Lane Corp. have increased an employer's exposure to large verdicts in employment suits. Authors are certain that these recent developments will encourage employers to resolve disputes through arbitration rather than in the federal courts.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL.

Kirchner, Jorg and Arthur L. Marriott. "International Arbitration in the Aftermath of Socialism: The example of the Berlin Court of Arbitration". Journal of International Arbitration; January, 1993; 10(1): pp. 5-16.

Authors examine the debate surrounding Germany's post-unification arbitration forum. Specifically, authors address the question of whether the Berlin Court of Arbitration has jurisdiction to hear disputes arising from pre-unification agreements.

SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL/ COURT REFORM.

Kitzmann, Katherine M. and Robert E. Emery. "Procedural Justice and Parents' Satisfaction in a Field Study of Child Custody Dispute Resolution". Law and Human Behavior; October, 1993; 17(5): pp. 553-67.

Article explains the outcome of a study to test the relative importance of procedural and distribution factors in parent satisfaction in custody disputes resolved by either arbitration or litigation.

SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Klaiber, Jeffrey. "The Catholic Church's Role as Mediator: Bolivia, 1968-1989". Journal of Church and State; March 22, 1993 (Spring); 35(2): pp. 351-65.

Since 1968, author notes, the Catholic Church has played an important role as a mediator in political and social crises in Bolivia. Article provides both

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an historical and analytical perspective of the Catholic Church's intermediary role.

NEG: CULTURAL CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ INST./ COMPARISONS: HISTORICAL NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: INT'L.

Klay, William Earle and Fiona Feng Chen. "Public Employees Perceptions of Unions as Intercissors for Technological Change". Journal of Collective Negotiations in the Public Sector; September 22, 1993 - Fall; 22(4): pp. 341-50.

Authors address the concerns of public employees regarding increased use of high technology in the workplace and how these concerns affect their feelings toward possible unionization. Authors also present a study of Florida public employees regarding their perceptions of unions as intercessors for employees in this regard.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Klimek, Mark D.. "Discrimination Claims Under Title VII: Where mandatory arbitration goes too far". Ohio State Journal on Dispute Resolution; March 22, 1993; 8(2): pp. 425-39.

Article addresses whether rights provided under the Civil Rights Act of 1964 are beyond the scope of binding arbitration agreements. Based on the Supreme Court's decision in Alexander v. Gardner-Denver Co., author concludes that an agreement to arbitrate will not preclude an employee from enforcing Title VII rights through a trial de novo.

ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ SUBJ MATTER: CIVIL RIGHTS.

Knox, Noelle. "Hot Issues Loom for Securities Industry" (industry's use of arbitration) (California Law Business Supplement). The Los Angeles Daily Journal; January 11, 1993; 106(6): p. S31/ Column 1.

Article lists and briefly describes "hot" topics for 1993 in the securities industry: limited partnership arbitration, case eligibility, punitive damages, and arbitrator training.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES.

**Kobren, Martin.** "ADR Techniques for the 21st Century". The Maryland Bar Journal; September, 1993; 26(5): pp. 36-39.

Article evaluates the advantages and disadvantages of various ADR techniques and suggests situations in which one technique would be more appropriate than another.

SELECTION OF APPROPRIATE PROCESS/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL.

**Kobren, Martin.** "Preparing for Mediation". The Maryland Bar Journal; January, 1993; 26(1): pp. 45-49.

Article is a practical guide for mediation. Author suggests skills and tactics which would be helpful in realizing the objectives of reconciling needs and interests to arrive at fair solutions for disputing parties.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS.

**Kohnke, John R.** "Dispute Review Boards: Rising star of construction ADR." Arbitration Journal; June, 1993; 48(2): pp. 52-55.

After comparing dispute resolution boards to other more common approaches to resolving construction claims, author recommends increased use of such boards, as they provide "prompt, expert, [and] impartial review of disputes."

SUBJ MATTER: CONSTRUCTION/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR.

**Kostritsky, Juliet P.** "Bargaining with Uncertainty, Moral Hazard, and Sunk Costs: A default rule for precontractual negotiations". Hastings Law Journal; March, 1993; 44(3): pp. 621-705.

Author proposes that courts adopt a rule imposing liability for precontractual negotiation breaches by incorporating the terms of the parties' "implicit bargain." Author discusses the economic benefits and the assistance such a rule would provide to courts in other contexts.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: COMMERCIAL/ COURT REFORM.

**Kovach, Kenneth A.** "Correlates of Employee Satisfaction with Pay and Benefits: Public/private and union/non-union comparisons". Journal of

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Collective Negotiations in the Public Sector; June 22, 1993 - Summer; 22(3): pp. 253-57.

Author studied union and non-union employees to discern their relative satisfaction with their compensation. Study reveals that unionized employees receive higher levels of compensation than non-union employees, but are less satisfied with it.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Kirkham, Michael C.** "Giving Competency Its Day in Court". Journal of Dispute Resolution; March 22, 1993; 1993(1): pp. 221-32.

Article examines the issue of the appropriateness of using arbitration for resolving disputes involving individual liberties. Author considers the In re Fellman decision and concludes that arbitration should not be used in cases involving individual liberties such as competency, child custody, and employment discrimination.

ARB: MANDATORY, COURT-ANNEXED- GENERAL.

**Kropp, Steven.** "Collective Bargaining in Bankruptcy: Toward an analytical framework for section 1113". Temple Law Review; September 22, 1993; 66(3): pp. 697-749.

Article examines the tension between bankruptcy law and labor law that has developed as a result of the adoption of a new chapter 11 of the Bankruptcy Code in 1978. Article considers why Section 1113 of the code, which was designed to alleviate this tension, has failed. Author concludes that one of the main reasons for 1113's failure is that bankruptcy courts lack a sufficient understanding of collective bargaining upon which 1113 relies.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL.

**Kulatz, Karen.** "Trading Substantive Values for Procedural Values: Compulsory arbitration and The Age Discrimination in Employment Act of 1967". University of Florida Journal of Law and Public Policy; March 22, 1993 - Spring; 5(2): pp. 343-53.

Article surveys the development of judicial deference toward employment dispute arbitration and suggests that the substantive rights of ADEA claimants have been weakened as a result.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: CLIENT

REP/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ SUBJ  
MATTER: CIVIL RIGHTS.

Kullman, William F. "Labor Relations - Right of Privacy: Whether the public interest in collective bargaining outweighs federal employees' privacy interest in their homes and occupations". Temple Law Review - Spring; March 22, 1993; 66(1): pp. 343-60.

Article addresses private-rights litigation of federal employees. Author explores the issue of whether employees should expect less privacy due to employment in the public sector.

SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS).

Kummer, Rita J. "Civil Rights Legislation: Alternative dispute resolution and the congressional process". University of Colorado Law Review; January, 1993 (Winter); 64(1): pp. 213-48.

Comment examines whether formal alternative dispute resolution techniques can aid the congressional process with issues such as the protection of civil rights. Formal conflict resolution theory is contrasted with the legislative process in a case study on the Civil Rights Act of 1991.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:  
GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP  
TECHNIQUES/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:  
CIVIL RIGHTS/ETHICS: GENERAL/ LEGISLATION.

Lagemann, Jonathan Kord and Robert V. Cornish, Jr.. "The Role of Experts in Securities Arbitrations". American Journal of Trial Advocacy; March 22, 1993 - Spring; 16(3): pp. 721-36.

Author outlines some of the reasons experts are used in increasing numbers of securities arbitrations, as well as the basic rules and uses of experts in securities litigation today.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- PREP/ MED: RELATED  
PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-  
GENERAL/ ARB: PREPARATION/ SUBJ MATTER: SECURITIES.

Landoll, Eric M.. "Contractual Agreements to Arbitrate Disputes: Whose intent controls?". Journal of Dispute Resolution; September 22, 1993 - Fall; 1993(2): pp. 373-82.



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Article examines how ambiguous contracts containing arbitration clauses should be interpreted in light of federal and state statutes such as the Federal Arbitration Act. Author uses Skewes v. Shearson Lehman Bros. to illustrate his conclusion that courts should look to extrinsic evidence indicating the parties' intent with regard to the ambiguities in the document as well as overriding statutory policy objectives.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GOV'T.

**Lavan, Helen.** "Arbitration of Sexual Harassment Disputes: Case characteristics and case outcomes in public versus private sector cases". Journal of Collective Negotiations in the Public Sector; January, 1993 (Winter); 22(1): pp. 45-53.

Comparison of 86 arbitrated sexual harassment cases in both the public and private sector. Study determined: affected individuals are less likely to be involved in the arbitration stage in the public sector; public sector third party involvement, though less manageable, is more common; and discharge is more likely to occur in the private sector.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: PRIVATE JUDGING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ FAIRNESS.

**LaVan, Helen.** "Decisional Model for Predicting Outcomes of Arbitrated Sexual Harassment Disputes". Labor Law Journal; April, 1993; 44(4): pp. 230-38.

Article emphasizes the importance of developing a working model to be used in sexual harassment arbitration. The importance of a reliable model upon which both labor and management may rely has been emphasized in the recent Supreme Court case Gilmer v. Interstate Johnson Lane Corp., which determined that arbitration may be final and binding in certain discrimination cases. Article provides an overview of the court's analysis in trying to develop a working decisional model.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL.

**Layton, Robert.** "Changing Attitudes Toward Dispute Resolution in Latin America". Journal of International Arbitration; June, 1993; 10(2): pp. 123-41.

Author takes an historical look at Latin America's traditional reluctance to encourage arbitration and provides a useful guide to increasing the success of arbitration in Latin America.

SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: CROSS-CULTURAL/ COMPLIANCE ISSUES/AGREEMENT ON PROCEDURE.

**Leatherbury, Thomas S. and Mark A. Cover.** "Keeping Public Mediation Public: Exploring the conflict between confidential mediation and open government". SMU Law Review; June 22, 1993 - Summer; 46(5):

pp. 2221-34.

Author argues that mediation can play an important part in the resolution of public disputes, and that it should not be confidential because the importance of furthering the efficient resolution of disputes is outweighed by the importance of openness in a representative government.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: GOV'T/ CONFIDENTIALITY.

**LeMarquand, David.** "The International Joint Commission and Changing Canada-United States Boundary Relations". Natural Resources Journal; January, 1993; 33(1): pp. 59-90.

Author explains the history of the IJC in the context of the boundary waters treaty and subsequent international boundary relations. Author outlines possible reforms affecting the IJC and its many roles, including its role as a technical mediator.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L.

**Leppard, Steven B..** "Arbitration? Sure, But Only On Our Terms: Escape clauses in uninsured motorist policies". Journal of Dispute Resolution; March 22, 1993- Spring; 1993(1): pp. 193-207.

Note analyzes the 1993 Supreme Court case Schaefer v. Allstate Insurance. Author argues that the court, by ruling that the clause at issue was unenforceable, intended to encourage arbitration. Author concludes that the court should have more narrowly tailored its decision in order to fit the arbitration needs of individuals.

SUBJ MATTER: INSURANCE/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB.

**Ley, Robert D. and William A. Wines.** "Teacher Bargaining in Minnesota: Retrospect on the 1980s and prospects of fewer bargaining units". Journal of Collective Bargaining in the Public Sector; June 22, 1993 - Summer; 22(3): pp. 233-44.

Authors study collective bargaining by Minnesota teachers during the 1980s and focus on the role strike activity played. They note a decline in the incidence of strikes and suggest several different theories to explain this phenomena. Authors also focus on the prevalence of delayed settlements and conclude that this was not a statigized tactic but could be explained by other means.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ  
MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE:  
CASE STUDY/RESEARCH REPORT.

**Li, Chun.** "Arbitration and Enforcement of Foreign Awards in Taiwan". East Asian Executive Reports; January 15, 1993; 15(1): pp. 9-14.

Article discusses Taiwan's statute for commercial arbitration, including its application to enforcement of foreign arbitral awards, judicial review, reciprocity, and blocking recognition.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND  
ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW.

**Liebowitz, Jonathan S..** "All-in-One Dispute Resolution: One case, four procedures". Arbitration Journal; June, 1993; 48(2): pp. 32-37.

Author posits that the use of four ADR procedures (mediation, fact-finding, mini-trial, and arbitration) in conjunction may resolve complex and difficult litigation matters not amenable to one ADR procedure in isolation.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT  
DURING PROCESS/ NON-BINDING RECOMMENDATION PROC-  
MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ SELECTION OF  
APPROPRIATE PROCESS.

**Littell, David.** "Consent and Disclosure in Superfund Negotiations: Identifying and avoiding conflicts of interest arising from multiple client representation". Harvard Environmental Law Review; January, 1993 - Winter; 17(1): pp. 225-59.

Article examines conflict of interest issues likely to arise from multiple client representation during consent decree negotiations entered into by the Environmental Protection Agency and parties responsible for hazardous waste site cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ ETHICS: GENERAL.

Lloyd, Patrick. "No Generalized Grievances: The 'law of rules' approach to standing". Ohio Northern University Law Review; September 22, 1993; 19(4): pp. 927-50.

Article reviews the traditional requirements of standing and analyzes the possible effect of Lujan v. Defenders of Wildlife on the doctrine of standing. Emphasis is placed upon Justice Scalia's judicial activism view. Author also discusses how the "rules"/"standards" dichotomy explains the courts' inconsistent implementation of the standing doctrine.

INST NATURE: GENERAL/ JUDICIAL PARTICIPATION.

Loewenstein, George, Samuel Issacharoff, Colin Camerer, and Linda Babcock. "Self-Serving Assessments of Fairness and Pretrial Bargaining". Journal of Legal Studies; January, 1993; 22(1): pp 135-59.

Authors assert that certain psychological factors influence disputants' behavior. This behavior dictates whether the disputant will enter into a settlement.

TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ RELATION TO ONGOING LITIGATION.

Lorenz, Anthony. "Mid-Term Rent Reductions Offer Hope for Tenants" (United Kingdom). Solicitors Journal; April 16, 1993; 137(14): pp. 352-53.

Author examines a growing trend in the United Kingdom in landlord-tenant relations towards conciliation and mid-term negotiation of the above-market rental prices resulting from the recession in the United Kingdom.

SUBJ MATTER: INT'L/ SUBJ MATTER: RENTAL HOUSING.

Low, Bill. "An Alternative Solution: ADR". The Texas Bar Journal; February, 1993; 56(2): pp. 158-62.

Author describes the results of a survey of Texas lawyers and judges on the impact and future use of ADR in Texas. Results indicate high levels of confidence and satisfaction in the various forms of ADR currently in use in

the Texas judicial system. Author predicts continued expansion of ADR as an efficient settlement technique in the legal profession.

MED: PRETRIAL CONF/ INST NATURE: JUSTICE SYSTEM-GENERAL/ ECONOMIC ADVANTAGES OF ADR/ RELATION TO ONGOING LITIGATION.

**Lurvey, Ira H.** "Love Letters: Premarital agreements help smooth divorces - or do they?". ABA Journal; January, 1993; 79: p. 85.

Article covers basic issues of premarital agreements. Author outlines some suggested guidelines for drafting premarital agreements to improve the likelihood that the agreements will withstand challenges.

NEG: W/ OR 1W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ DISPUTE PREVENTION.

**Lynn, D.G.** "Litigate? Mediate? The Answer Is!". Kentucky Bench and Bar; September 22, 1993; 57(4): pp. 20-24.

Author examines the beginnings of mediation in Kentucky. Article gives an explanation of how lawyers should prepare for and participate in the mediation process in personal injury and marriage dissolution cases.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: OPENING AND SETTING GUIDELINES/ MED: REP OF A CLIENT DURING PROCESS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SELECTION OF APPROPRIATE PROCESS.

**MacKinnon, David P. and James H. Dwyer.** "Estimating Mediated Effects in Prevention Studies". Evaluation Review; April, 1993; 17(2): pp. 144-58.

Article describes statistical procedures used to assess how prevention and intervention programs achieve their effects.

MED: RELATED PROCESSES-GENERAL.

**Maclean, Mavis.** "Divorce and the Professionals" (United Kingdom). Family Law; January, 1993; 23: p. 3.

Author discusses how the British legal system and professional mediators in divorce counseling are interrelated. Author concludes that the "extravagant" use of solicitors is not always needed, but that mediators may not "best meet the needs of all divorcing couples in the present economic climate."

MED: COUNSELING/ SUBJ MATTER: FAMILY (DOMESTIC REL)/  
COMPARISONS: CROSS-CULTURAL.

Magsino, Romulo F.. "Institutional Responses to Teacher Misconduct in the Atlantic Provinces" (Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island) (Special Issue on Teacher Misconduct). Education & Law Journal; April, 1993; 5(1): pp. 143-65.

Author traces the evolution of conflict resolution mechanisms used to resolve teacher-employer conflicts in the Maritime provinces.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: EDUCATION.

Malasky, Alan R., Christopher R. Kelley, and Susan A. Schneider. "Resolving Federal Farm Program Disputes: Recent developments" (Symposium: Agricultural Law, 1992, American Agricultural Association). William Mitchell Law Review; March 22, 1993; 19(2): pp. 283-330.

Article provides a brief synopsis of federal farm program law and disputes, and a brief review of the Agricultural Stabilization and Conservation Service administrative appeal process. Author argues that a basic understanding of these topics is essential for serving farm program participants.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FARM/ SUBJ MATTER: GOV'T.

Malone, Thomas P.. "Negotiating a Support Agreement". Family Advocate; September 22, 1993; 16(2): pp. 44-47.

Author gives suggestions for negotiating a child support agreement that is inclusive enough to avoid future litigation. Among elements to be considered in advance are children's anticipated needs, such as special educational needs and college expenses, and potential changed financial circumstances of either the custodial or the non-custodial parent.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Mandelbaum, Leonard B.. "Employment at Will: Is the Model Termination Act the answer?". Labor Law Journal; May, 1993; 44(5): pp. 275-85.

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Article analyzes the employment-at-will doctrine and the problems that it presents to employees. Author concludes that if the Model Termination Act, which calls for mandatory arbitration, were enacted some of the inherent problems of unfairness in the employment-at-will doctrine could be eradicated.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/  
SUBJ MATTER: PUBLIC POLICY.

**Mann, Bruce Alan.** "Privatization in the Czech Republic". Business Lawyer; May, 1993; 48(3): pp. 963-73.

Article explains how Czech negotiations to invest in enterprises being privatized are actually less complex than the representations, contingent payments, and unique security issues typically faced by American lawyers who specialize in mergers and acquisitions.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ  
MATTER: CORPORATE/ COMPARISONS: CROSS-CULTURAL.

**Manuele, Vincent O.** "Averting Cleanup Disputes: 'Partnering' Ensures Flexibility". The National Law Journal; November 22, 1993; 16(12): p. 25.

Article advocates an approach called "partnering" to resolve environmental cleanup disputes. This approach allows parties to control costs by maintaining a cooperative, rather than adversarial, relationship.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/  
NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP  
TECHNIQUES/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER:  
ENVIRONMENT/ ECONOMIC ADVANTAGES OF ADR.

**Mapp, Wayne Daniel.** The Iran-United States Claims Tribunal: The First Ten Years: An Assessment of the Tribunal's Jurisprudence and Its Contribution to International Arbitration, New York: St. Martin's Press, 393 pp. (1993).

Book gives an assessment of the Iran-United States Claims Tribunal in the first ten years (1981 -1991). Author discusses the events leading up to and the process utilized for the establishment of the Tribunal. He also examines its substantive jurisdiction. Author discusses the procedures of the Tribunal and the enforcement of Tribunal awards.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ  
MATTER: INT'L.

Marcel, Kathleen W.. "Alternative Dispute Resolution in Colorado". Colorado Lawyer; July, 1993; 22(7): pp. 1445-48.

Article describes various alternative dispute resolution processes available in Colorado and the principal state provisions addressing the processes. Author describes the processes in order to assist lawyers and clients in selecting the most appropriate process.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ NON-BINDING  
RECOMMENDATION PROC-SUMMARY JURY TRIAL/ ARB:  
BINDING ARB- GENERAL/ ECONOMIC ADVANTAGES OF ADR/  
LEGISLATION.

Marchel, Peter. "Real Lawyers Do Not Mediate; They Litigate". Washington State Bar News; April, 1993; 47(4): pp. 46-48.

Author discusses the trend in bar associations toward recognizing ADR through rule, resolution or creed. Author lists five instances of recently adopted rules, resolutions or creeds that create a duty for attorneys to inform clients of the ADR options available.

MED: COUNSELING/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE.

Marchel, Peter. "Settlement Now: An expansion of alternatives". Washington State Bar News; April 1993; 47(4): pp. 52-53.

Author gives a brief history of the origin of "Settlement Now", a pro bono mediation program which has helped to reduce court congestion by encouraging a significant number of would be trial litigants to settle their disputes out of court. The process of submitting a case to Settlement Now is briefly discussed. Article also discusses the evolution of Settlement Now to the appellate level, the benefits of such an expansion, and a proposed process for mediating would-be appellate cases.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: GENERAL/  
INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS.

Marlin, Beth. "Labour & Employment Law: Bargaining balances, arbitration options, sexual harassment minefields and employment equity on hold" (Canada). Canadian Lawyer; March, 1993; 17(2): pp. 38-42.

Article explores recent alternative dispute resolution developments in the areas of labor and employment law, such as the replacement of free collective bargaining with imposed arbitrated settlements and the advantages of arbitration in wrongful dismissal cases.



## 1993 BIBLIOGRAPHY

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR.

Marmo, Michael. "Union Leadership and the Conferral of Symbolic Rewards: Michael Quill and the Transport Workers Union". Journal of Collective Negotiations in the Public Sector, March 22, 1993 - Spring; 22(2): pp. 119-35.

Author notes that almost all research on public sector negotiations focuses on the give and take interaction between unions and corresponding government entities. The purpose of the article is to examine internal political pressures that one public sector union leader faced and the tendency of leaders to meet such pressures with a symbolic response.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: PSYCH CONSIDERATIONS/SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: ABOR-GENERAL/ COMPARISONS: HISTORICAL.

Marques, Laurence W.. "Management Perspective" (response to "Americans with Disabilities Act and Civil Rights: Effect on Arbitration" by B. Glenn George in this issue, p. 130). Proceedings of the Annual Meeting of the National Academy of Arbitrators; January, 1993; 46: pp. 149-53.

Author comments on a potential situation arising under the American with Disabilities Act where the employer makes a reasonable accomodation for an employee protected by the act, yet the accomodation conflicts with the terms of the collective bargaining agreement. Author describes the predicament of the employer, outlines a solution, and then briefly characterizes the arbitrator's role in that solution.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION.

Marsel, Robert S.. "Mandatory Arbitration Under ERISA: Pay now, dispute later". Northern Kentucky Law Review; January, 1993 - Winter; 20(2): pp. 441-92.

Article addresses the need for Congressional action in the area of multi-employer pension plans as well as the statutory framework of ERISA and the Multi-employer Pension Plan Amendments Act of 1986. Article focuses on

the role of statutorily-mandated arbitration in the MPPAA dispute resolution process.

ARB: MANDATORY, COURT-ANNEXED- GENERAL.

**Marshall, Donald L.** "ADR: Not ABCs of litigation (living without lawyers)". Public Utilities Fortnightly; January 15, 1993; 131(2): pp. 23-25. Suggests that ADR is a process that can and should be used in coping with changing public utility regulation. ADR, author argues, would reduce expenses and uncertainties associated with litigation, thereby facilitating lower rates in the long run. Author recommends that the parties themselves should select the ADR facilitator, and that the facilitator should have experience in the ratemaking process.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC UTILITIES/ 3RD PARTY: SELECTION/ ECONOMIC ADVANTAGES OF ADR.

**Martin, Christopher.** "'Electromation' and Its Aftermath". Employee Relations Law Journal; June 22, 1993 - Summer; 19(1): pp. 133-40.

The NLRB issued a widely publicized and highly controversial decision in December, 1992, in which it found that employee participation committees are illegal labor organizations which are dominated by the employer. Since that decision, employers have been forced to evaluate their own employee participation programs and alter or dissolve the programs as necessary.

SUBJ MATTER: LABOR-GENERAL.

**Martin, Chris.** "Mediation: A better way". Louisiana Bar Journal; October, 1993; 41(3): pp. 207-11.

Article discusses what mediation is, how it works, how long it takes, and what its benefits are.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: GENERAL.

**Martin, Christopher J.** "The NAFTA Debate: Are concerns about U.S. job migration to Mexico legitimate?". Employee Relations Law Journal; December 22, 1993 - Winter; 19(3): pp. 239-50.

Article briefly considers the anticipated impact of NAFTA on U.S. interests ranging from organized labor to investors. Author indicates that, despite the inconclusiveness of the projections, some of the labor unions' fears may someday be realized.

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SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: LABOR-GENERAL.

**Martin, Christopher J. and Patricia S. Radez.** "The NLRB's Difficult Dilemma: To defer or not to defer in drug testing cases". Employee Relations Law Journal; September 22, 1993 - Autumn; 19(2): pp. 277-83.

Authors examine public safety concerns as a central force behind judicial deference toward arbitration results where the dispute concerns employee drug testing and related termination.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC POLICY.

**Martin, E. Gregory; David L. Wood, John E. Clough, Donald W. Hoagland, Daniel W. Dean, Robert A. Millman, Katherine Tamblyn, Lester L. Ward, Cathlin Donnell, Gina B. Weitzenkorn, Joyce S. Sterling.** "Professionalism: An update of the CBA committee's work" (reports of the subcommittees of the Colorado Bar Association). Colorado Lawyer; February, 1993; 22(2): pp. 241-55.

Article reviews the recent work done by the Colorado Bar Association Conciliation Panel Subcommittee. Purpose of a conciliation panel, according to the authors, is to defuse animosity within the legal profession. The duties of a conciliation panel would primarily consist of handling complaints of ethical violations submitted by one lawyer against another.

INST NATURE: PRIVATE, PROFIT-MAKING/ ETHICS: GENERAL.

**Martin, Nina.** "Confidential Settlements Provide Boost to Insurers in Future Cases. (high-dose chemotherapy and bone marrow transplants as cancer treatment)". (California). The Los Angeles Daily Journal; January 5, 1993; 106(2): p. 11/Column 4.

Article describes the problems faced by plaintiffs in HDCT/ABMT insurance cases because of confidential settlements.

SUBJ MATTER: INSURANCE.

**Martin, R. Christopher.** "Effective Negotiation: A guide to dialogue management and control" (book review). Loyola Law Review; June 22, 1993 - Summer; 39(2): pp. 427-31.

Review of a 1992 book by Bernard Ramundo gives the reader a walk-through of the book. Author notes disagreement with Ramundo's concern of parties' loss of control during mediation. Author pulls from his own experience as a mediator and posits that no real independence is lost to the third-party mediator in mediated negotiation.

MED: RELATED PROCESSES-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: GENERAL.

Masters, Marick F. and Robert S. Atkin. "Financial and Bargaining Implications of Free Riding in the Federal Sector". Journal of Collective Negotiations in the Public Sector; September 22, 1993 - Fall; 22(4): pp. 327-40.

Authors examine the free riding problem that the prohibition on union security agreements causes for unions representing federal employees. They discuss the effect this has on financial and bargaining outcomes and on the ability of the unions to represent covered employees. Authors' study reveals significant differences in percentage of free riders among three large federal public sector unions.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION.

Mattson, Robert. "New Finnish Arbitration Act 1992". International Business Lawyer; July, 1993; 21(7): pp. 325-28.

Short but concise note examines the ramifications and potential of the New Finnish Arbitration Act of 1992. Author examines in detail the provisions of the act, noting differences between the new act and its precursor.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ LEGISLATION.

Mawlawi, Farouk. "New Conflicts, New Challenges: The evolving role for non-governmental actors (Keeping the Peace: Conflict Resolution in the Twenty-First Century)". Journal of International Affairs; January, 1993 - Winter; 46(2): pp. 391-413.

Author discusses the role of non-governmental organizations (NGOs) in the prevention and resolution of conflicts in the age of the new world order.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL.

6

**Maxwell, John P.** "A Quantum Leap Backwards: The Ohio Supreme Court constricts the definition of 'arbitration.'" Ohio State Journal on Dispute Resolution; September 22, 1993 Fall; 9(1): pp. 181-201.

Author criticizes the court's decision in Schaefer v. Allstate Insurance Company. He asserts that the decision is unwarranted and will cripple the use of nonbinding arbitration in Ohio for efficient resolution of disputes.

NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/  
JUDICIAL PARTICIPATION.

**Mayer, Jeffrey J.** "Recent Mexican Arbitration Reform: The continued influence of the 'publicistas'". University of Miami Law Review; March, 1993; 47(4): pp. 913-49.

Article analyzes recent changes in Mexican arbitration law to determine whether Mexican arbitration law is consistent with prevailing international theories of arbitration. Author characterizes Mexican arbitration as a procedure in transition to a modern arbitration system, and offers strategies for overcoming the remaining procedural hurdles.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/  
SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL.

**McAlpine, Mark L.** "ADR in Large and Complex Cases". Michigan Bar Journal; October, 1993; 72(10): pp. 1054-57.

Article proposes that ADR methods are the best way to handle large and complex cases because the courts do not have the resources to handle highly technical, complex cases. ADR is also advantageous because it allows a process settlement to be tailored to the particular needs of the dispute.

SUBJ MATTER: SCIENCE & TECHNOLOGY/ COURT REFORM/ ARB:  
BINDING ARB- GENERAL.

**McConnell, Mark.** "Alternative Dispute Resolution: A lawyer's guide to mediation and other forms of dispute resolution" (book review). Scots Law Times; March 12, 1993; (10): p. 85.

Book reviewed is a practical introduction to mediation in the United Kingdom. Reviewer states that the book is a good introduction with valuable information in the appendices, but that it is not well put together.

TYPE OF SOURCE: BOOK REVIEW/ MED: RELATED PROCESSES-  
GENERAL/ SUBJ MATTER: INT'L.

McDermott, E. Patrick. "Fleet, Discreet, and Complete - Use of ADR in employment law". The Maryland Bar Journal; March, 1993; 26(2): pp. 6-10. Article discusses how the use of ADR is becoming a more attractive option for the resolution of employment law disputes. Author briefly discusses the various types of ADR and then focuses on mediation and arbitration as the two most common techniques for resolving employment disputes.

MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT- ANNEXED- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

McDonald, Derek Raymond. "Judicial Review of Negotiated Rulemaking". The Review of Litigation; March 22, 1993 - Spring; 12(2): pp. 467-87.

"Reg-neg," the negotiation of proposed regulations between administrative agency officials and representatives of the private interests to be affected by the rule, represents a pre-emptive form of dispute resolution. Author warns, however, that the public interest may pay a price since administrative agencies could easily lose sight of their public advocacy duties and evolve into a passive broker of competing special interest groups.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: NEGOTIATED RULE-MAKING/ MED: PUBLIC POLICY  
DIALOGUE/ INST NATURE: GOV'T ENTITIES/ INST NATURE:  
PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GOV'T/ 3RD PARTY:  
NEUTRALITY/ DISPUTE PREVENTION/ EFFECT OF PROCESS ON  
NON-PARTICIPATORY PARTIES/ POWER IMBALANCE.

McDonough, Kirsten J.. "Resolving Federal Tax Disputes Through ADR". Arbitration Journal; June, 1993; 48(2): pp. 38-46.

Article examines the role of ADR (specifically, mediation and arbitration) in resolving controversies in the federal tax dispute process without sacrificing a taxpayer's right to due process.

MED: RELATED PROCESSES-GENERAL/ NON-BINDING  
RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB:  
MANDATORY, COURT-ANNEXED-TRIAL DE NOVO/ ARB: BINDING  
ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ  
MATTER: TAX/ ECONOMIC ADVANTAGES OF ADR.

McDowell, Douglas S.. Alternative Dispute Resolution Techniques: Options And Guidelines To Meet Your Company's Needs, Washington, D.C.: Employment Policy Foundation, 114 pp. (1993).

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Book provides an overview of the ADR techniques that can be employed to resolve various statutory employment claims, such as title VII, ADEA, and ADA. Focus of the book is on arbitration and mediation, but there is adequate coverage on other techniques, including med-arb, mini-trial and negotiation. Book contains an excellent discussion of the legal issues generated by the Supreme Court's Gilmer decision, including its impact on the Civil Rights Act of 1991 and individual employment contracts.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ ECONOMIC ADVANTAGES OF ADR.

McGowan, Michael. "See You in Arbitration: Most securities claims against brokers wind up out of court". ABA Journal; May, 1993; 79: p. 110. Since the 1987 Supreme Court decision in Shearson/American Express v. McMahon, which held that cases brought under Section 10b of the Securities Exchange Act of 1934 must be arbitrated if there is an arbitration agreement between the parties, almost all disputes between stockbrokers and their customers are decided through arbitration. The widespread use of arbitration to resolve disputes is due to the proliferation of arbitration clauses in brokerage agreements and because of the encouragement by the courts for such arbitration.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES.

McKenna, Marshall. "A Cost Order as a Penalty Failing to Mediate" (Western Australia). Australian Dispute Resolution Journal; May, 1993; 4(2): pp. 160-62.

Case note discussing Caplingua v. Phylum Pty. Ltd. in which the defendants refused to participate in mediation process outlined under the rules of the Supreme Court of Western Australia. Author supports the court's finding that the defendants should be fined for the increased court costs that resulted from their failure to mediate.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ REQUIREMENTS: STATUTORY OR RULES.

McLaughlin, Joseph T.. "Choice-of-Law Problems in International Commercial Arbitration" (book review). Fordham International Law Journal; March 22, 1993 - Spring; 16(3): pp. 946-53.

Review acclaims the descriptions of the choice-of-law rules in the United States, United Kingdom, Federal Republic of Germany, and Argentina as the book's strongest point. Author then briefly critiques and discusses each respective country.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

McWilliams, J. Michael. "Dwindling Judicial Resources: Chronic underfunding leading to delays, reduced services, shutdowns". ABA Journal; July, 1993; 79: p. 8.

Article touches on the lack of financial resources in the federal and criminal justice systems. A 1992 report of the ABA Special Committee on Funding the Justice System found that the lack of funding along with increased case load puts the quality and availability of justice in this country at risk. Article states that the bar can alleviate matters by encouraging practices such as ADR.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ ECONOMIC ADVANTAGES OF ADR.

Mears, Rona R. "Contracting in Mexico: A legal and practical guide to negotiating and drafting". St. Mary's Law Journal; January, 1993 - Winter; 24(3): pp. 737-74.

Article outlines the role of contracting in Mexico. Article discusses the cultural differences between the U.S. and Mexico and provides suggestions for coping with such differences during negotiations. Preparation for, and the process of, negotiations between the U.S. and Mexico are suggested.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

Mebane, John G., III. "An End to Settlement on the Courthouse Steps? Mediated Settlement Conferences in North Carolina Superior Courts". North Carolina Law Review; September, 1993; 71(6): pp. 1857-92.



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Article discusses legislation introducing mediation to North Carolina courts. Author describes mediation sessions and analyzes the program, concluding that the program should be expanded but with some modifications.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- SMALL CLAIMS COURTS/ 3RD PARTY: NEUTRALITY/ LEGISLATION/ SELECTION OF APPROPRIATE PROCESS.

Medwig, Michael T. "The New Law Merchant: Legal rhetoric and commercial reality". Law and Policy in International Business; January, 1993 - Winter; 24(2): pp 589-616.

Article discusses author's support of the continued expansion of arbitration as an alternative to litigation through the International Chamber of Commerce Court of Arbitration which is designed to intervene between disputes, thereby portraying the international community's desire to facilitate international trade.

MED: ENCOURAGING COMM AND NEG/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ ECONOMIC ADVANTAGES OF ADR.

Mehling, Christopher J. and Donald Stepler. "Court-Annexed Arbitration - the Northern Kentucky Experience" (Symposium on Emerging Alternative Dispute Resolution Systems). The Kentucky Law Journal; June 22, 1993 - Summer; Vol. 81(4): pp. 1155-63.

Author outlines the court-annexed arbitration system created by the Boone County Circuit Court, articulates its advantages, and makes recommendations for the future.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ COURT REFORM.

Melton, Jerry W. "Mediation: An effective method for resolving family law disputes". Texas Bar Journal; May, 1993; 56(5): pp. 484-88.

Author provides a general overview of mediation and describes it as an effective alternative to litigation in resolving family law disputes. Mediation is better able to handle the underlying personal issues that often accompany family law disputes. Further, mediation can help narrow issues and allows more efficient use of attorney, court, and client resources.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/

SUBJ MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES OF ADR.

Meltzer, Eleanor K. "TRIPs and Trademarks, or - GATT Got Your Tongue?" (Trade-Related Aspects of Intellectual Property Rights, draft of part of 1991 General Agreement on Tariffs and Trade Negotiations). The Trademark Reporter; January, 1993; 83(1): pp. 18-37.

Article provides a concise overview of the impact of TRIPs on the international protection of intellectual property rights in the areas of trademarks, marks of geographical origin, and industrial design. Author contends that these protections are parallel to the protections found in U.S. trademark law. Author supports adoption of TRIPs as providing a uniform level of international trademark protection.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L.

Menkel-Meadow, Carrie. "Lawyer Negotiations: Theories and realities--what we learn from mediation" (California) (Dispute Resolution: Civil Justice and Its Alternatives). Modern Law Review; May, 1993; 56(3): pp. 361-79.

Article reviews basic elements of negotiation theories. Author explores the mental processes in which lawyers engage during negotiations. Author, drawing from personal experience, reports on the difficulties in the conception and execution of negotiation processes. She concludes by examining race, class, and gender issues as they affect dispute resolution and negotiation processes.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: PSYCH CONSIDERATIONS/ ROLE OF LAWYERS.

Menkel-Meadow, Carrie. "To Solve Problems Not Make Them: Integrating ADR in the law school curriculum". SMU Law Review; June 22, 1993; 46(5): pp. 1995-2004.

Author argues that teaching ADR techniques at law school would help to create attorneys who are able to meet a broader spectrum of societal needs than those served through litigation. Author lists four goals advanced by teaching ADR and discusses the different types of learning and subjects that

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could be covered in various ADR classes. Conclusion discusses pedagogical techniques for ADR classes.

SUBJ MATTER: EDUCATION/ TEACHING.

Meyer, Richard S.. "Common Causes and Special Causes: Who is threatened by Deming - labor or management?". Labor Law Journal; October, 1993; 44(10): pp. 620-25.

Article discusses the National Labor Board's decision in Electromation, Incorporated in which the Board held that Electromation's employee involvement committees constituted unlawfully dominated labor organizations. Author considers whether total quality management (TQM) is foreclosed by the National Labor Relations Act.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION.

Miers, Harriet. "Our Number One Priority". Texas Bar Journal; January, 1993; 56(2): p. 106.

Article briefly describes the changes that were implemented in the grievance process for Texas lawyers in May of 1992. Author claims that the grievance process is now more effective because more complaints are being prosecuted despite the increasing number of filings.

SUBJ MATTER: OTHER PROF MALPRACTICE/ ETHICS: GENERAL/ ORGANIZATION POLICIES AND RULES/ ROLE OF LAWYERS.

Miers, Harriet. "'What We Have Here is a Failure to Communicate' (lawyers' need to communicate and tolerate diversity)". Texas Bar Journal; March, 1993; 56(3): p. 210.

Author briefly describes the deep philosophical and political divisions among faculty and students at the Harvard Law School. Author comments that the division at Harvard represents a failure to communicate. A commitment to communication in the legal community is essential to promoting problem solving techniques in society at large.

SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: PUBLIC POLICY/ ROLE OF LAWYERS.

Migdal, Stephen and Ann Holmes. "Why Bother Making Calderbank Offers?" (United Kingdom). Family Law; June, 1993; 23: p. 328.

Author discusses the wisdom of making settlement offers "without prejudice" in all negotiations and suggests that the use of "open" offers often gives the offeror more options than a "without prejudice" offer.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/  
CONFIDENTIALITY/ ROLE OF LAWYERS.

**Mika, Harry.** "The Practice and Prospect of Victim-Offender Programs". SMU Law Review; June 22, 1993 - Summer; 46(5): pp. 2191-2206.

Author discusses the practice and impact of victim-offender mediation, with specific reference to the Victim-Offender Reconciliation Program (VORP).

MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER:  
CRIMINAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ DISPUTE  
PREVENTION.

**Miller, Edward B.** "Management Perspective (Downsizing and Other Restructuring Problems)". Proceedings of the annual meeting of the National Academy of Arbitrators; January, 1993; 46: pp. 53-63.

Author suggests that the economic interests of the U.S. require that arbitrators to labor disputes recognize and understand the post-recession reality that businesses are forced to downsize because of the competitive environment. Author discusses the need for new approaches to arbitrating disputes over employment contracts in the following areas: (1) job content, (2) wage rates, (3) manning, (4) work schedules, and (5) subcontracting. Article includes analyses of arbitration decisions and relevant cases.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS).

**Miller, Francis.** "Arbitration: Negligence and the arbitrator" (United Kingdom). Tolley's Professional Negligence; June, 1993; 9(2): pp. 70-73.

Author discusses the unanswered question of whether professional arbitrators in the United Kingdom are entitled to judicial immunity from malpractice claims.

ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ  
MATTER: OTHER PROF MALPRACTICE.

**Miller, Janice L., David B. Balkin, and Robert Allen.** "Employer Restrictions on Employees' Legal Off-Duty Conduct". Labor Law Journal; April, 1993; 44(4): pp. 208-19.

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Although the courts have been inconsistent in their rulings on an employer's ability to restrict an employee's legal off-duty conduct, arbitration has produced consistent results. Article details the inconsistencies of the court rulings and the consistencies of arbitral rulings in the area of employer regulation of an employee's legal off-duty conduct. Article suggests ways of implementing these types of "employment policies" so that employees perceive the policies as "fair".

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/  
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:  
EMPLOYMENT (NON-UNIONS).

**Miyoshi, Masahiro.** Considerations of Equity in the Settlement of Territorial and Boundary Disputes. Norwell, MA: Kluwer Academic Publishers, 246 pp. (1993).

Author analyzes a variety of arbitration clauses which "provide for some form of equity as the basis of decision." Book puts forward an analyzation of equitable considerations with respect to procedural and substantive matters in arbitrations involving territorial and boundary disputes. Author concludes with a theoretical review of the application of equity.

ARB: BINDING ARB- GENERAL/ ARB: MANDATORY, COURT-  
ANNEXED- GENERAL.

**Mnookin, Robert H.** "Why Negotiations Fail: An exploration of barriers to the resolution of conflict". Ohio State Journal on Dispute Resolution; March 22, 1993 - Spring; 8(2): pp. 235-49.

Author explains the four primary barriers to the negotiated resolution of conflict and shows how these barriers can be explored from an interdisciplinary perspective. Author stresses the need for people from all disciplines to learn from one another in order to advance the understanding of conflict, improve theory and practice, and overcome barriers to negotiated conflict resolution.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES.

**Moberly, Michael D.** "Truth and Consequences: The impact of arbitration in employment defamation cases". The Labor Lawyer; Fall, 1993; 9(4): pp. 577-94.

Article discusses the inclusion of clauses in employment contracts providing for binding arbitration of employment disputes; specifically defamation suits brought by discharged employees.

ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES.

"Montana Court Strikes Strategy Exemption" (Montana Supreme Court, collective bargaining exemption from open meetings law). News Media & the Law; January, 1993; 17(1): p. 15.

Article summarizes a Montana Supreme Court case, Great Falls Tribune, Inc. v. Great Falls Public Schools, which struck down a legislative exemption to the state's Open Meetings Act which had allowed for secrecy when the agencies meeting were discussing strategy for labor negotiations. CONFIDENTIALITY/ LEGISLATION/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER.

Montana Mora, Miquel. "A GATT With Teeth: Law wins over politics in the resolution of international trade disputes". Columbia Journal of Transnational Law; January, 1993 - Winter; 31(1): pp. 103-80.

Article examines the role of law and politics in resolving international trade disputes by reviewing the evolution of dispute settlement mechanisms in the GATT, from its inception in 1947 to the recent Uruguay Round.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL.

Morgan, F. Beth. "Handbook of Alternative Dispute Resolution," 2d ed. (book review). Texas Bar Journal; March, 1993; 56(3): p. 287.

Article briefly reviews a handbook on the expanded coverage and types of alternative dispute resolution used in the Texas courts.

MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ SELECTION OF APPROPRIATE PROCESS.

Mori Irvine. "Mediation: Is it appropriate for sexual harrassment grievances?". Ohio State Journal on Dispute Resolution; 1993; 9(1): pp. 27-53.

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Author suggests that mediation is not appropriate for cases where bright lines need to be drawn to delineate acceptable behavior in the workplace. Similar to domestic violence cases, the dynamics of sexual harassment include power, fear, and coercion. Arbitration is the most appropriate form of ADR to be utilized in disputes dealing with sexual harassment.

MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT- ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: PUBLIC POLICY/ ETHICS: GENERAL/ POWER IMBALANCE.

Most, L.D.. "Drafting and Negotiating Commercial Leases in Scotland," 2d ed. (book review). Scots Law Times; October 15, 1993; (32): pp. 309-10.

Reviewer finds that this new edition of a 1985 publication offers several valuable improvements and is an excellent source of guidance for the practitioner, whether acting for landlord or tenant, or a purchaser or seller.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: RENTAL HOUSING/ TYPE OF SOURCE: BOOK REVIEW.

Mosten, Forrest S.. "Mediation Makes Sense: How to prevent an international crisis". Family Advocate; March 22, 1993 - Spring; 15(4): pp. 44-45.

Author suggests that the advantages attributes of mediation (such as speedy resolution, direct communication, and low cost) can help prevent an international child custody case from escalating into a crisis.

MED: PUBLIC POLICY DIALOGUE/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: INT'L.

Mosten, Forrest S.. "Mediation and Prevention of Business Disputes." Beverly Hills Bar Association Journal; June 22, 1993 - Summer; 27(3): pp. 105-08.

Author argues that by taking additional training in advanced ADR and preventive law programs, both executives and their lawyers are adding competence to legal work and providing damage control to businesses. By utilizing ADR and preventive law, lawyers will become "healers of conflicts."

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ ROLE OF LAWYERS.

**Muldoon, Brian.** "Using Conflict Resolution to Make Maryland a Leader." (Time Out to Mediate). The Maryland Bar Journal; September, 1993; 26(5): pp. 18-22.

Article describes how the Maryland Department of the Environment used the principles of conflict resolution to facilitate the creation of a solid waste management plan by various divergent interest groups.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: ENVIRONMENT.

**Mullen, Eileen M.** "Rotating Japanese Managers in American Subsidiaries of Japanese Firms: A challenge for American employment discrimination law". Stanford Law Review; February, 1993; 45(3): pp. 725-82.

Author argues American anti-discrimination law must be adapted to address the multidimensional nature of Equal Employment Opportunity (EEO) charges involving foreign- owned corporations. One suggested approach is to negotiate bilateral or multi-lateral EEO agreements to which companies of the signatory countries would adhere in staffing offices in each other's home market.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-DISCRIMINATION.

**Muller, Frank.** "ADR: A practical guide to resolve construction disputes" (book review). Arbitration Journal; June, 1993; 48(2): pp. 85-86.

Largely favorable review purports to describe the strengths and weaknesses of the book by the same name. Reviewer provides special attention to the sections concerning the nature of ADR, the federal government's involvement in ADR, confidentiality concerns, and the use of dispute review boards.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: CONSTRUCTION/ TYPE OF SOURCE: BOOK REVIEW/ CONFIDENTIALITY.

**Mustill, Michael.** "Comments on Fast-track Arbitration." (The 1993 Geneva Global Arbitration Forum). Journal of International Arbitration; December, 1993; 10(4): pp. 121-26.

An English judge compares the quick, informal commercial arbitration that was the norm yesterday with the "fast-track" arbitration that is the norm today. Article is an adaptation from a speech.

SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ SUBJ MATTER: COMMERCIAL/ CONFERENCE PROCEEDINGS/



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### ECONOMIC ADVANTAGES OF ADR/ RELATION TO ONGOING LITIGATION/ ARB: SELECTION OF ARBITRATOR.

**Myers, Selma and Barbara Filner.** Mediation Across Cultures: A Handbook About Conflict & Culture, San Diego: Myers & Filner, 81 pp. (1993).

Handbook advocates use of mediation in cross-cultural disputes and offers practical definitions of mediation and culture. Authors attempt to demonstrate the effectiveness of mediation and the complexity culture brings to the resolution process.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES

**Nader, Laura.** "Controlling Processes in the Practice of Law: Hierarchy and pacification in the movement to re-form dispute ideology." Ohio State Journal on Dispute Resolution; 1993 -Fall; 9(1): pp. 1-25.

Author feels that the advantages of ADR have perhaps been exaggerated and that legal practitioners have been "mind colonized" to believe that Americans want less litigation. Nader suggests that by using ADR methods, we may be trading justice for harmony.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GENERAL/ COURT REFORM/ ETHICS: GENERAL/ POWER IMBALANCE.

**Naon, Horacio A. Grigera.** "ICC Arbitration and Developing Countries." ICSID REVIEW - Foreign Investment Law Journal; March 22, 1993; 8(1): pp. 116-22.

Author explains that ICC arbitration is particularly suitable for resolving disputes between parties from both developed and developing countries, especially in view of the increased financial interaction and exchanges among business and commercial operators all over the planet.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L.

"NASD Proposes Rule Change Promoting Compliance With Arbitration Awards". Tax Management Financial Planning Journal; February 16, 1993; 9(2): p. 76.

Article reports on a proposed rule change for the National Association of Securities Dealers (NASD) that would provide the organization with a new approach to enforcing proper and final arbitration awards. The new rule would make a failure to pay an arbitration award justification to expel or suspend its members and thus supplement NASD's current disciplinary proceeding mechanism to further ensure the enforcement of arbitration awards.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES.

Nelson, Nicole R. "Designing Benefit Plans to Minimize Claims." Employee Relations Law Journal; March 22, 1993 - Spring; 18(4): pp. 625-35.

Author advocates that employers scrutinize their employee benefit plans for ways to decrease benefit disputes under the Employment Retirement Income Security Act of 1974. Article makes several recommendations for the manner in which employee benefit plans may be better scrutinized.

SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ LEGISLATION/ REQUIREMENTS: STATUTORY OR RULES/ DISPUTE PREVENTION.

"New Law Accommodates PBGC Settlement with Continental Airlines" (Pension Benefit Guaranty Corp.). Tax Management Compensation Planning Journal; May 7, 1993; 21(5): p. 126.

Article addresses a settlement dispute between the PBGC and Continental Airlines as it relates to the pension liabilities of the defunct Eastern Airlines. For federal bankruptcy purposes, Congress passed a measure that treats the PBGC's arrangement with Continental as a lease. This measure was taken to remedy the adverse affects of the PBGC's ability to foreclose on the aircraft, if the arrangement were not treated as a lease.

TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD.

Newcomer, Ed, Jr.. "Binding Mediation is Not for Washington". Washington State Bar News; March, 1993; 47(3): pp. 58-59.

Author argues that binding mediation that breaks down essentially becomes arbitration and the mediator becomes an arbitrator. He then points out that

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the necessary elements of a successful mediation process (e.g., confidential disclosure to the mediator) are clearly juxtaposed against the necessary elements of a favorable arbitration award (e.g., non-disclosure to the arbitrator). Because of the threat of breakdown, author argues participants in a binding mediation process have an incentive not to disclose information to the mediator. Author claims non-disclosure leads to ineffective mediation negotiations.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OPENING AND SETTING GUIDELINES/ ARB: BINDING ARB- GENERAL/ CONFIDENTIALITY.

**O'Connell, Donald P.** "Discussion of Voluntary Mediation in the Law Division of the Cook County Circuit Court Presented as a Response to Michael R. Orlando." CBA Record; October, 1993; 7(7): pp. 30-31.

Explains the Chicago Bar Association's voluntary mediation project and analyzes community support for this project.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE.

**O'Melveny, Mary K.** "The Americans with Disabilities Act and Collective Bargaining Agreements: Reasonable accommodations or irreconcilable conflicts?". Kentucky Law Journal; September 22, 1993 - Fall; 82(1): pp. 219-48.

Author argues that it is both possible and desirable to reconcile the tensions which exist between the Americans with Disabilities Act and the National Labor Relations Act through use of the collective bargaining process.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Oade, K. Preston, Jr. and Andrew W. Volin.** "Adoption of Internal Dispute Resolution Systems by Non-union Employers" (Colorado). Colorado Lawyer; May, 1993; 22(5): pp. 975-78.

Article explores advantages of alternative dispute resolution in non-union labor disputes. Article focuses on systems of internal dispute resolution, including grievance committees and arbitration. Author concludes with a case study of the use of grievance committees at a large non-union company.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SELECTION OF APPROPRIATE PROCESS.

Orta, David M.. "Public Employee Collective Bargaining in Florida: Collective bargaining or collective begging?". Stetson Law Review; September 22, 1993 - Fall; 23(1): pp. 269-316.

Article analyzes the effect of Florida case law on the ability of public employees to engage in meaningful collective bargaining.

SUBJ MATTER: LABOR-GENERAL/ ARB: BINDING ARB- GENERAL.

Oughton, David. "Business Law" (book review). Journal of Business Law; January, 1993: p. 104.

Book covers general principles of business law as well as dispute resolution in the business context.

SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW.

Owens, R. Vann. "Alternative Dispute Resolution: A judge's viewpoint" (Tennessee). Tennessee Bar Journal; May, 1993; 29(3): pp. 38-39.

Judge Owens identifies a problem facing judges, especially in Tennessee. A conflict has arisen among judges concerning the manner in which they should handle their large caseloads. Some judges feel that alternative ways to solve disputes need to be examined in order to improve the system. Other judges feel that any attempt to avoid litigation and thereby lighten the caseloads of judges is a violation of the Tennessee constitution.

COURT REFORM/ ECONOMIC ADVANTAGES OF ADR.

Oyama, Kuniko. "Recent Developments in Japanese Arbitration Law: An introduction to the draft arbitration law of Japan." Journal of International Arbitration; June, 1993; 10(2): pp. 55-121.

Author discusses the history of arbitration in Japan, giving the reader some idea of the attitude many Japanese have towards the arbitration of disputes. Author then explains the mechanics of the current Japanese laws concerning arbitration and contrasts them with the recently proposed Draft Arbitration Law. She concludes that the Draft Law is likely to be the basis for a new scheme and corresponding Japanese attitude toward the arbitration of disputes..

ARB: BINDING ARB- GENERAL/ COMPARISONS: CROSS-CULTURAL.

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**Palmieri, Nicola W.** "Good Faith Disclosures Required During Precontractual Negotiations." Seton Hall Law Review; December 22, 1993 - Winter; 24(1): pp. 70-213.

Author discusses the historic and present status of the duty of good faith and fair dealing and the modern trend toward a duty to disclose. Author argues that changing societal mores are forcing a wholesale re-examination of the doctrine of caveat emptor in the United States.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ SUBJ MATTER: COMMERCIAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE.

**Paquin, Gary W.** "The Development and Organization of Domestic Relations Mediation in a Multi-function Mediation Center in Kentucky." The Kentucky Law Journal; June 22, 1993 - Summer; 81(4): pp. 1133-53.

Examines the evolution of the Mediation Center of Kentucky's domestic relations mediation program. Discusses two innovative techniques developed through the program: pre-mediation screening and the use of co-mediators.

MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: VOLUNTEER OF LAY PERSONS.

**Paquin, Gary W. and Karen A. Zerhusen.** "When the Parties Decide, Who Should Preside? Mediator qualifications." Kentucky Bench and Bar; September 22, 1993; 57(4): pp. 25-27.

Authors discuss various qualification schemes for mediators including skills or performance qualifications, degree or background qualifications, and required training. They end with a description of the mediator requirements in Kentucky.

MED: RELATED PROCESSES-GENERAL/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING.

**Paray, Paul E.** "Judicial Treatment of Damages Exclusions Negotiated in Custom Software Licenses." Uniform Commercial Code Law Journal; January 1993 (Winter); 25(3): pp. 240-56.

Author argues that contractual provisions which preclude recovery for consequential damages should be upheld in order to further the U.C.C.'s basic policy of freedom of contract. Article asserts that court decisions

which invalidate these provisions will impede the growth of the software industry and unfairly limit contract negotiations.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/  
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/  
INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER:  
COMMERCIAL/ SUBJ MATTER: CORPORATE/ TYPE OF SOURCE:  
CASE STUDY/RESEARCH REPORT.

**Parigi, Sam F., Frank J. Cavaliere, and Joel L. Allen.** "Labor Law and the Future of Organized Labor Under the Clinton Administration." Labor Law Journal; May, 1993; 44(5): pp. 313-17.

Article details what unions can expect from the Clinton Administration by examining the recent past and possible future of labor law. Author concludes with a discussion of the condition of organized labor, stating that a rise in union membership is likely.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/  
REQUIREMENTS: CONTRACTUAL CLAUSES/ ORGANIZATION  
POLICIES AND RULES.

**Pasqualetti, Martin J. and Geoffrey Rothwell.** "Who Pays to Close a Nuke?" (nuclear power plant). Public Utilities Fortnightly; January 15, 1993; 131(2): pp. 35-37.

Article analyzes the application of Coase's Theorem to the decommissioning of nuclear power plants in the future. Specifically, authors conclude that application of Coase's Theorem and its theory of costless negotiation to handle the inevitable externalities of nuclear decommissioning will be to the mutual benefit of both the utilities and the environmentalists.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/  
SUBJ MATTER: PUBLIC UTILITIES.

**Paterson, Robert K.** "Implementing the UNCITRAL Model Law." Journal of International Arbitration; June, 1993; 10(2): pp. 29-45.

Author examines Canada's first seven years under the UN Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. Article analyzes the Canadian courts' interpretations of the Model Law. Author discusses how judicial interference adds additional costs and delays and undermines confidence. However, courts have come to accept the role of private arbitration in international commercial disputes.

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ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COURT REFORM/ JUDICIAL PARTICIPATION.

**Penegar, Kenneth.** "Preface: The elusive promise of legal reform." SMU Law Review; June 22, 1993 - Summer, 22(5): pp. 1889-1903.

Paper gives a broad view of what the ADR movement means to the American legal system. Author discusses the significance of court-annexed ADR, ADR as a reaction to the civil justice system, the application of ADR to issues involving corporations, and the need to change our perspective of corporations to see them more as moral agents. Finally, the author discusses how litigation is taken as the traditional paradigm for dispute resolution in our society.

INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CORPORATE.

**Pengilley, Warren.** "Hidden Agendas and Other Matters: Some rambling thoughts of a mediator." Australian Dispute Resolution Journal; February, 1993; 4(1): pp. 53-74.

Author argues that sleuthing out the "hidden agenda" in each mediation case (i.e. discovering what each party really wants or can live with) is the most important factor in resolving disputes. Article identifies various types of mediator mistakes and common misconceptions relating to mediation. A case-study method is utilized to illustrate key points.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY.

**Perrin, Rynders.** "Confidentiality in Mediation: A conflict between two value systems." (Michigan). Michigan Bar Journal; October, 1993; 72(10): pp. 1016-17.

Article emphasizes the necessity of recognizing confidentiality in mediation in order to maintain the integrity of mediation. Author recognizes that some conflicts exist between mediation and confidentiality, but he concludes that confidentiality between the adversary parties is paramount.

MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ MED: RELATED PROCESSES- GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES.

**Pescatore, Pierre.** "The GATT Dispute Settlement Mechanism: Its present situation and its prospects." Journal of International Arbitration; March, 1993; 10(1): pp. 27-42.

Article provides a thorough discussion of the procedures for dispute resolution under GATT. Author also comments on the future of dispute resolution after the Uruguay rounds.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L.

**Petersmann, Ernst-Ulrich.** "International Trade Law and International Environmental Law: Prevention and settlement of international environmental disputes in GATT." Journal of World Trade; February, 1993; 27(1): pp. 43-81.

Article details past international environmental disputes to suggest that the General Agreement on Tariffs and Trade has provided a more effective method for ensuring international treaty compliance through its dispute resolution element.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,  
COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/  
SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: ENVIRONMENT/  
SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ SUBJ  
MATTER: TAX/ SUBJ MATTER: TOXIC TORTS/ DISPUTE  
PREVENTION.

"A Petition Clause Analysis of Suits Against the Government: Implications for Rule 11 Sanctions." Harvard Law Review; March, 1993; 106(5): pp. 1111-28.

Note criticizes courts for ignoring the Petition Clause in their development of First Amendment jurisprudence. The Petition Clause allows citizens to contribute to governmental decisionmaking. Author feels that the court should restore the Petition Clause by carefully considering the protections provided by the clause independent of the Free Speech and Free Press Clauses.

SUBJ MATTER: GOV'T/ INST NATURE: JUSTICE SYSTEM-  
GENERAL.

**Pike, Andrew.** "Disputes Review Boards and Adjudicators." The International Construction Law Review; March, 1993; 10(2): pp. 157-71



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Author discusses the advantage of ADR review boards for civil, building, electrical, and mechanical engineering projects in England.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/  
NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP  
TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF  
BARGAINING TEAMS/ SUBJ MATTER: CONSTRUCTION/ SUBJ  
MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

**Pinckney, Annette.** "Tax Abatements and Industrial Location: Township of Ypsilanti, Mich. v. General Motors Corp." Tax Notes; June 14, 1993; 59(11): pp. 1537-40.

Special report discusses the equitable remedy of promissory estoppel as a mode of settling contractual disputes when the rigid rules of contract law fail to reach a just result. This common law remedy provides a flexibility sufficient to assure fairness.

SUBJ MATTER: TAX/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

**Pior, Anne.** "What do the Parties Think? A Follow-up Study of the Marriage Guidance South Australia (MGSA) Family Mediation Project." Australian Dispute Resolution Journal; May, 1993; 4(2): pp. 99-112.

Analysis of a follow-up study for individuals who had participated in Family Mediation Services during the first eighteen months of the Service's establishment. Study evaluated the effectiveness and degree of satisfaction that the mediation participants experienced.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ MED: COUNSELING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

**Piskorski, Thomas J.** "Reinstatement of the Sexual Harasser: The conflict between federal labor law and Title VII." Employee Relations Law Journal; March 22, 1993 - Spring; 18(4): pp. 617-23.

Collective bargaining agreements often provide for grievance procedures to address allegations of sexual harassment and authorize arbitrators to make the final determination of punishment. Arbitration procedures in this context cause a clash between the public policy against sexual harassment and encouraging the private resolution of disputes in the workplace. Article analyzes several cases addressing the apparent conflict.

ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ SUBJ MATTER:  
LABOR-MANAGEMENT (UNIONS).

Piskorski, Thomas J. and David B. Ross. "Private Arbitration as the Exclusive Means of Resolving Employment-related Disputes." Employee Relations Law Journal; September 22, 1993 - Autumn; 19(2): pp. 205-19.

Authors survey the complexities of employment dispute arbitration and present important legal and factual issues that should initially be considered by employers .

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:  
MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB:  
MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/  
ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:  
CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL  
REVIEW.

Plowden, Evans J., Jr.. "The Judge's Role in Resolving Disputes." (Georgia). Georgia State Bar Journal; May, 1993; 29(4): p. 243.

Short article discusses several reasons lawyers are apprehensive of Alternative Dispute Resolution (ADR). Author proposes that judges play an active role in ADR to maximize results and minimize costs.

MED: RELATED PROCESSES-GENERAL/ MED: TIMING/ ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:  
JUSTICE SYSTEM- GENERAL/ JUDICIAL PARTICIPATION/ ROLE OF  
LAWYERS.

Podgers, James. "Maine Route: Multi-door proposal reflects growing role of ADR." ABA Journal; September, 1993; 79: p. 118.

Maine is the latest state to consider implementing a multi-door approach to dispute resolution for its courts. This approach provides multiple ADR options to parties seeking to resolve disputes. Author suggests that this approach will reduce the caseload of the justice system and allow parties to resolve disputes quickly and cost effectively.

INST NATURE: JUSTICE SYSTEM- GENERAL/ COURT REFORM/  
ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION.

Politakis, George P.. "The French-Canadian Arbitration Around St. Pierre and Miquelon: Unmasked opportunism and the triumph of the unexpected."

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International Journal of Marine and Coastal Law; March, 1993; 8(1): pp. 105-34.

Article explores various methods of setting maritime boundaries, such as the one which were argued before an International Arbitral Tribunal in a dispute over North Atlantic island territory. Author analyzes how this decision fits within the rubric of maritime delimitation cases and suggests that complexity remains a constant factor in the resolution of such disputes.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ SUBJ MATTER: GENERAL.

Pons, Ted E.. "American Arbitration Law: Reformation, nationalization, internationalization" (book review). Arbitration Journal; September, 1993; 48(3): p. 83.

Review evaluates a book by Ian Macneil which gives a history of commercial arbitration. Book describes battles fought to compel the enforceability of arbitration awards.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: HISTORICAL.

Pons, Ted E.. "Directory of U.S. Labor Organizations" (book review). Arbitration Journal; June, 1993; 48(2): p. 87.

Review of an AFL-CIO directory which lists all national, state and local affiliates and major independent unions is suggested for use by labor arbitrators, as it is the only reference tool of its kind and is "the key to the enormous AFL-CIO network in all 50 states."

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: OK REVIEW.

Pons, Ted E. "Guidance on the Use of Alternative Dispute Resolution for Litigation in the Federal Courts". Arbitration Journal; September, 1993; 48(3): p. 83.

Article reviews the Bush Administration's Civil Justice Reform Plan and its suggestions for alternate dispute resolution. The ADR options covered include: arbitration, mediation, early neutral evaluation, fact-finding and the mini-trial.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ NON-BINDING  
RECOMMENDATION PROC-NEUTRAL FACT-FINDING/ ARB:  
MANDATORY, COURT-ANNEXED-GENERAL/ TYPE OF SOURCE:  
BOOK REVIEW.

**Pons, Ted E.** "Women and Unions: Forging a partnership" (book review).  
Arbitration Journal; September, 1993; 48(3): p. 82.

Article is a book review of Olivia S. Mitchell's "As the Workforce Ages: Costs, Benefits, & Policy Challenges." Book focuses on the shift to an older workforce and provides insights as to how older workers fit into the labor market. Author focuses on the lack of mobility, expectations about pay, retirement, and the job structure regarding older workers.

SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE:  
BOOK REVIEW.

**Potter, Louis B.** "The Defense and ADR." For the Defense; January, 1993;  
35(2): p. 1.

Short article dealing with the attitude defense lawyers should have toward ADR. Author concludes that defense lawyers should be involved in the ongoing development of ADR.

MED: RELATED PROCESSES-GENERAL.

**Pregliasco, Delores.** "Kentucky at the Alternative Resolution Crossroads."  
Kentucky Bench and Bar; September 22, 1993-Fall; 57(4): pp. 22-23.

Author begins by criticizing Kentucky and the Kentucky Bar's slow start in adopting alternative dispute resolution, but finishes with a positive report on some recent headway in the establishment of several forms of ADR in Kentucky.

ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE  
PROCESS.

**Preis, Mary L.** "Mediation: Who will answer the policy questions?". The Maryland Bar Journal; September, 1993; 26(5): pp. 24-28.

Author notes the private sector's increasing use of mediation raises a number of policy questions. Questions include how to address balance of power concerns, issues of mediator qualifications and training, confidentiality, and professional ethical considerations. Author concludes that these questions

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require the combined attention of the legislature, the courts, and the bar association.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ MED: PUBLIC POLICY DIALOGUE/ 3RD PARTY: TRAINING/ CONFIDENTIALITY/ COURT REFORM/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE/ ORGANIZATION POLICIES AND RULES/ POWER IMBALANCE.

**Press, Sharon.** "Building and Maintaining a Statewide Mediation Program: A view from the field" (Symposium on Emerging Alternative Dispute Resolution Systems). Kentucky Law Journal; June 22, 1993 - Summer; 81(4): pp. 1029-65.

Author identifies and discusses issues that must be addressed when establishing a statewide mediation program. Case study of the Florida Dispute Resolution Center illustrates how one state court system has implemented a mediation program.

MED: OBTAINING AGREEMENT TO USE/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION.

**Primm, Edith B.** "The Neighborhood Justice Center Movement" (Symposium on Emerging Alternative Dispute Resolution Systems). Kentucky Law Journal; June 22, 1993 - Summer; 81(4): pp. 1067-83.

Article documents the development of the Neighborhood Justice Center (NJC) by the U.S. Justice Department. Author examines types of alternative dispute resolution processes, mediator training, staff composition, and the funding of the pilot NJC's in Atlanta, Kansas City, and Los Angeles. Author believes that new programs should include volunteer community mediators, access to services for both complex and simple disputes, diversity in funding, and, in particular, involvement by the legal community.

MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS.

**Pruitt, Dean G., Robert S. Pierce, Neil B. McGillicuddy, Gary L. Welton, and Lynn M. Castrianno.** "Long-Term Success in Mediation". Law and Human Behavior; June, 1993; 17(3): pp. 313-30.

Article reports on the results of a study of the antecedents of long-term success in community mediation. Report concludes mediators should pay special attention to respondents and strive to maintain an appearance of fairness because the respondent's state of mind appears to be critical for long-term success.

MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS.

**Pryor, Will and Robert M. O'Boyle.** "Public Policy ADR: Confidentiality in conflict?". SMU Law Review; June 22, 1993 - Summer; 46(5): pp. 2207-20.

Authors consider eight major concerns of those who feel that ADR techniques, when applied to controversies involving government entities and the public interest, defeat the purpose of open government. Authors conclude ADR qualitatively and quantitatively offers the participants in public policy disputes a better method for resolving issues than does the civil justice system.

MED: RELATED PROCESSES-GENERAL/ MED: NEGOTIATED RULE- MAKING/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: PUBLIC POLICY/ CONFIDENTIALITY.

**Raeschke-Kessler, Hilmar.** "Arbitration in the Changed East-West Relationship". International Business Lawyer; January 1993; 21(1): pp. 16-21.

Extensive political changes in Central and Eastern Europe have caused new regions to become subject to unified law when resolving conflicts. Author suggests the political climate should serve as the basis for a change in the implementation of international arbitration and offers possible solutions to this novel problem.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR.

**Raitt, Susan E., Jay Folberg, Joshua Rosenberg and Robert Barrett.** "The Use of Mediation in Small Claims Courts". Ohio State Journal on Dispute Resolution; September 22, 1993 Fall; 9(1): pp. 55-94.

Consultants identified and surveyed counties in California that either used ADR programs for small claims cases or had developed ways of handling small claims other than through adjudication by a judge.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- SMALL CLAIMS COURTS.

**Raker, Keith H.** "Party-Appointed Hit Men: Contingency fees for arbitrators after Aetna Casualty & Surety Co. v. Grabbert". Ohio State Journal of Dispute Resolution; March 22, 1993 - Spring; 8(2): pp. 441-55.

Article discusses the use of party-appointed arbitrators and their limited right to pursue the appointing party's interests. Author focuses on the inherent conflict that exists when allowing an arbitrator to represent certain party interests. Special attention is put upon the Aetna Casualty & Surety Co. v. Grabbert decision.

ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

**Ramundo, Bernard A.** "Effective Negotiation: A guide to dialogue management and control." (book review). Texas International Law Journal; March 22, 1993; 28(2): p. 437.

Author proposes the use of uniform negotiation techniques that practitioners can apply in all settings. Author gives a basic overview of a uniform negotiation process capable of being used by individuals and professionals alike.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ TYPE OF SOURCE: BOOK REVIEW.

**Randolph, Patrick A., Jr.** "Catfight: Enforcing consensual property agreements gets tougher" (California). ABA Journal; May, 1993; 79: p. 106.

Article advocates binding arbitration as a method for resolving disputes over consensual property agreements. Such agreements are commonly used by condominium associations.

ARB: BINDING ARB- GENERAL.

**Rappis, James Gilbert.** "The Use of Contract Interpretation by Professional Sports Arbitrators". Marquette Sports Law Journal; March 22, 1993 - Spring; 3(2): pp. 215-35.

Article discusses methods used by professional sports arbitrators to interpret statutes and contracts. Author analyzes three grievance awards and concludes arbitrators strive for an equitable result while using established standards of interpretation: plain meaning, bargaining history, context, and the avoidance of a nonsensical results.

ARB: BINDING ARB- GENERAL/ ARB: SERVING AS  
 ARBITRATOR/SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:  
 SPORTS & ENTERTAINMENT/ TYPE OF SOURCE: CASE STUDY/  
 RESEARCH REPORT.

**Rappoport, Michael D. and John F. Cooney.** "Visibility: The issue that won't disappear" (protecting views near national parks). Public Utilities Fortnightly; May, 1993; 131(8): pp. 16-21.

Authors represented the Salt River Project in negotiations with the Grand Canyon Trust, the Environmental Defense Fund, and the Environmental Protection Agency in a dispute over coal-burning levels at the Navajo Generating Station. Authors believe the successful negotiation achieved in this case illustrates how negotiation can yield a better result than the more costly avenue of litigation for both utility companies and environmentalists.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/  
 SUBJ MATTER: PUBLIC UTILITIES/ ECONOMIC ADVANTAGES OF  
 ADR.

**Rasor, Dennis J.** "Mandatory Medical Malpractice Screening Panels: A need to re-evaluate". Ohio State Journal on Dispute Resolution; September 22, 1993 (Fall); 9(1): pp. 115-44.

Article examines pretrial medical malpractice screening panels and questions the nexus between these panels and reduced medical costs. Author also discusses the constitutionality of mandatory screening panels under various state constitutional theories.

MED: PRETRIAL CONF/ SUBJ MATTER: MEDICAL MALPRACTICE.

**Ratcliff, Rosemary H.** "Demanding Rationality in NLRB Deference to Pre-arbitration Settlements" (1991-92 Annual Survey of Labor and Employment Law). Boston College Law Review; March, 1993; 34(2): pp. 359-69.

Author gives an historical overview of judicial deference in the review of NLRB arbitration awards and pre-arbitration settlement agreements. Article attempts to delineate judicial criteria and discuss the inconsistencies in approaches and results. A 1992 case upholding deference to a pre-arbitration settlement is discussed.

ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ  
 MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-  
 MANAGEMENT (UNIONS).



Readey, James A. "A Primer for Drafting ADR Contract Clauses". Corporate Counsel's Quarterly; Sept./Oct. 1992; 9(2): pp. 24-34.

Article provides general overview of ADR and a basic, easy-to-read primer for drafting ADR clauses into contracts.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: DRAFTING SETTLEMENT AGREEMENTS/ ARB: DRAFTING  
ARB AGREEMENT/ REQUIREMENTS: CONTRACTUAL CLAUSES/  
AGREEMENT ON PROCEDURE.

Reddy, Dawn. "Guilty Pleas and Practice" (Eighth Survey of White Collar Crime). American Criminal Law Review; March 22, 1993 - Spring; 30(3): pp. 1117-37.

Author surveys the rules that govern the validity of guilty pleas and their withdrawal, the rules governing breach of a plea agreement, and the effect of a guilty plea. Article also examines plea bargaining and discusses strategies the defense and prosecution may utilize, with special emphasis on practice under the sentencing guidelines.

SUBJ MATTER: CRIMINAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY  
NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES-GENERAL.

Redel, Charles L. and Augustus Abbey. "The Arbitration of Drug Use and Testing in the Workplace". Arbitration Journal; March, 1993; 48(1): pp. 80-85.

Article examines the factors considered by arbitrators when deciding drug abuse cases. Authors address employer decision-making in the implementation of drug testing programs, employee privacy concerns, test reliability, and the use of test results.

CONFIDENTIALITY/ ARB: PRIVATE JUDGING/ SUBJ MATTER:  
EMPLOYMENT (NON-UNIONS).

"Reflections of a Divorce Lawyer". Trial; June, 1993; 29(6): pp. 50-55.

Interview with New York divorce lawyer Marian F. Dobbs. Article discusses trend towards the use of alternative dispute resolution in divorce settlements.  
MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: FAMILY  
(DOMESTIC REL).

Rege, Vinod. "Economies in Transition and Developing Countries: Prospects for greater co-operation in trade and economic fields". Journal of World Trade (Law-Economics-Public Policy). February, 1993; 27(1): pp. 83-115.

Article considers the economic reforms and policy changes taking place in both economies in transition (e.g. the former Soviet Union) and developing countries. Author examines how their cooperation in the economy and trade could be revitalized and strengthened.

SUBJ MATTER: INT'L/ MED: RELATED PROCESSES-GENERAL/  
MED: RELATED PURPOSES- THEORY AND STRATEGIES/ NEG: W/  
OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC.

Reichert, Douglas D.. "Law and Practice of International Commercial Arbitration", 2d ed. (book review). International Tax & Business Lawyer; January, 1993 - Winter; 10(2): pp. 236-40.

Author's updated edition serves as a major advance in the study of international commercial arbitration prior to the recent European unification. Book addresses procedural, evidentiary, and organizational structures and offers new approaches to international fact-finding and dispute resolution processes.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ ARB:  
MANDATORY, COURT-ANNEXED- GENERAL/ TYPE OF SOURCE:  
BOOK REVIEW.

Reid, Scott R.. "Monetary Damages Against States-Arbitrators Have Power to Award, but Federal Courts Cannot Enforce". Journal of Dispute Resolution; September 22, 1993-Fall; 1993(2): pp. 383-95.

Article analyzes the inconsistent holding of Tennessee Department of Human Services v. United States Department of Education. The inconsistencies are based upon the conflict between the arbitration provision of the Randolph-Shepard Vending Stand Act and the immunity afforded under the Eleventh Amendment.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:  
JUDICIAL REVIEW.

Reilly, Meegan M.. "Justices Question Whether Pension Assets Must Be Transferred". Tax Notes; January 18, 1993; 58(3): pp.270-71.

Reviews the case of Local 144 Nursing Home Pension Fund v. Demisay, S.Ct. Dkt. 91-610 (935 F.2d 528 (1991)). Issue discussed is whether section 302(c)(5) of the Labor Management Relations Act (LMRA) requires the

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transfer of assets from a pension and health trust to another fund created by three-year collective bargaining agreements.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: TAX.

**Reynolds, Michael P.** "Arbitration Needs Lawyers". (United Kingdom). Solicitors Journal; December 3, 1993; 137(46): pp. 137-83.

Author asserts the arbitration profession needs more lawyers because non-lawyers lack the legal training to better equip them to handle preliminary matters.

ARB: SELECTION OF ARBITRATOR/ ROLE OF LAWYERS.

**Rice, Susan Dianne.** "Ruling Irks Counsel in Bargaining" (California). The Los Angeles Daily Journal; February 2, 1993; 106(22): p. 3/ Column 1. Article describes the reaction to and reasoning of the holding in Santa Clara County Counsel v. Woodside. Court held that the attorneys in the Santa Clara County Counsel's office could not sue the county to enforce their collective bargaining rights because professional ethical obligations preclude an attorney from suing a current client.

INST NATURE: GOV'T ENTITIES/ ETHICS: GENERAL.

**Ricupero, Rubens.** "UNCED and Agenda 21: Chronicle of a negotiation." Colorado Journal of International Environmental Law and Policy; January, 1993 - Winter; 4(1): pp. 81-101.

Author participated in the negotiations and recounts the successes and failures of resolving several of the financial issues surrounding Agenda 21 "through an informal, parallel meeting of ministers of a few key countries." Author concludes the "global negotiations ideal" ultimately prevailed at the Rio de Janeiro Conference.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: W/OR W/O ASSIST OF 3D PARTY NEUTRAL- THEORY: GENERAL.

**Riskin, Leonard L.** "Two Concepts of Mediation in the FmHA's Farmer-Lender Mediation Program" (Department of Agriculture's Farmers Home Administration). Administrative Law Review; January, 1993; 45(1): pp. 21-64.

Article addresses a mediation program initiated in 1988 by the Farmers Home Administration to mediate disputes between farmers and their

creditors. Two concepts, a broad and a narrow mediation approach, have developed from the mediation program.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FARM.

**Robbins, Ira P.** "The Prisoners' Mail Box and the Evolution of Federal Inmate Rights". West's Federal Rules Decisions; January, 1993; 144(2): pp. 127-69.

Article gives a long and detailed account of the history and development of a federal inmate's right to petition for redress of grievances. Author stresses the need for continued proactive efforts in this area in order to help guarantee the decent treatment of prisoners in the federal prison system.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CIVIL RIGHTS/SUBJ MATTER: PRISONS/ SUBJ MATTER: PUBLIC POLICY/COMPARISONS: HISTORICAL.

**Robel, Lauren K.** "Private Justice and the Federal Bench". Indiana Law Journal; June 22, 1993 - Summer; 68(3): pp. 891-906.

Article addresses whether, due to the inefficiencies of the formal court system and overburdensome federal case loads, dispute resolution should be privatized. Author argues privatization is a continuum and, to some extent, judges are already privatized. Article raises important considerations as to the privatization of dispute resolution within the federal court system.

INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: GOV'T ENTITIES/ INST NATURE: PRIVATE, PROFIT-MAKING/ JUDICIAL PARTICIPATION.

**Roberts, Jim.** "Environmental Mediation: Dispute resolution or dispute management?" (Australia). Australian Dispute Resolution Journal; May, 1993; 4(2): pp. 150-59.

Article examines the nature of environmental disputes and the role that mediation plays in these disputes. Author views mediation in environmental disputes as both an individual mechanism and as an integral part of other ADR methodologies.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: ENVIRONMENT.

**Roberts, Simon.** "Alternative Dispute Resolution and Civil Justice: An unresolved relationship" (United Kingdom). Modern Law Review; May, 1993; 56(3): pp. 452-70.

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Author asserts the field of ADR is comprised of many different projects that are all grouped under the term "alternative dispute resolution." Author identifies three categories: support for party negotiations, innovative forms of legal practice, and novel procedures of the court. Article discusses how each individual area blends with the others and evaluates how each affects the civil justice system.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION/ PROVISIONAL REMEDIES/ SELECTION OF APPROPRIATE PROCESS.

**Roberts, Tim.** A Self-evaluation Manual for Community-based Mediation Projects: Tools for Monitoring & Recording Data, Victoria, B.C.: U. Vic. Institute for Dispute Resolution, 53 pp. (1993).

Author compiled manual after conducting an evaluation of two community-based mediation organizations in British Columbia and preparing a comprehensive report. Manual is a practical guide for mediation programs in that it delineates several steps to implementation and provides forms and questionnaires for self-evaluation. In keeping with its functional theme, author also provides a brief bibliography of mediation program evaluation reports and additional self-help resources.

MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING GUIDELINES/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ INST NATURE: PRIVATE, PROFIT-MAKING/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ QUALITY CONTROL.

**Robin, Joan Deasy.** "Compelling Arbitration of Employment Disputes". Los Angeles Lawyer, May, 1993; 16(3): pp. 39-43.

Article examines the acceptance and resistance of certain federal courts to the use of ADR procedures in employment disputes. Article evaluates the trend over the past few years in the federal courts to support the Federal Arbitration Act and encourage ADR as a matter of national policy.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ JUDICIAL PARTICIPATION/ LEGISLATION.

Ross, Marc Howard. The Management of Conflict: Interpretations and Interests in Comparative Perspective. New Haven: Yale University Press, 226 pp. (1993).

Book follows the author's previous work, "The Culture of Conflict", which analyzed cross-culture differences in conflict using data from ethnographic reports. Current book uses theories developed in the prior cross-cultural investigation to explore conflict management. Author discusses conflict management in both high-conflict and low-conflict societies, and offers models for successful conflict management.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: PUBLIC UTILITIES/ SUBJ MATTER: RENTAL HOUSING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

Roszkowski, Christie L. and Robert F. Wayland. "Arbitration Review: Is the public policy against sexual harassment sufficient cause for vacating an arbitration award?". Labor Law Journal; November, 1993; 44(11): pp. 707-16.

Article examines grievance procedures for employees sanctioned for sexual harassment and the judicial enforcement of such grievance procedure determinations, in light of the Stroehmann Bakeries, Inc. v. Teamsters Local 776 case. Authors conclude that the Stroehmann case undermines the effectiveness of arbitration and other collective bargaining techniques.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/SUBJ MATTER: PUBLIC POLICY.

Roth, Bette J., Randall W. Wulff and Charles A. Cooper. The Alternative Dispute Resolution Practice Guide, NY: Lawyers Cooperative Pub., (looseleaf) (1993).

Book is supplemented by looseleaf updates on a periodic basis. Practical guide for practioners beginning or continuing an ADR practice. Provides instruction on how to practically apply new developments in the field.

ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS/SUBJ MATTER: PUBLIC POLICY/ ROLE OF LAWYERS.

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**Roukis, George S. and Farid I Mamdouh.** "An Alternative Approach to the Permanent Striker Replacement Strategy". Labor Law Journal; February 1993; 44(2): pp. 80-91.

Authors recommend labor disputes be submitted to advisory arbitration, with costs assessed to both sides. The practice will help prevent costly strikes, and anti-labor practices such as hiring permanent replacements for striking workers.

ARB: BINDING ARB- GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: CORPORATE/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS.

**Roumell, George T., Sr.** "Alternative Dispute Resolution in Title VII Discrimination". Michigan Bar Journal; February, 1993; 72(2): pp. 164-68.

Article discusses how courts have handled the clash between provisions in collective bargaining agreements and Title VII of the Civil Rights Act of 1964. Collective bargaining agreements may provide for final and binding arbitration, but Title VII provides that an employee can elect to begin litigation when an employment discrimination dispute occurs between the employer and the employee.

SUBJ MATTER: LABOR-DISCRIMINATION/ ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION.

**Rowan-Robinson, Jeremy.** "Environmental Protection: The case for a new dispute resolution procedure" (Scotland). Journal of the Law Society of Scotland; January, 1993; 38(1): pp. 5-8.

Article considers why dispute resolution is needed to deal with environmental matters. Author considers what form such a dispute resolution procedure might take and the arguments against it.

SUBJ MATTER: ENVIRONMENT/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES.

**Rubin, Barnett R.** "Post-Cold War State Disintegration: The failure of international conflict resolution in Afghanistan" (Keeping the Peace: Conflict Resolution in the Twenty-First Century). Journal of International Affairs; January 1993-Winter; 46(2): pp. 469-92.

Author explores the United Nations' failed attempts to bring ethnic peace in Afghanistan and suggests the demise of the United Nations' efforts was fueled by the amount of weapons supplied to settle the conflict. Author asserts intervention by the United Nations contributed to Afghanistan's intolerance of further international intervention.

INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ NEG: CULTURAL CONSIDERATIONS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-POWER/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

**Rusk, Tom.** The Power of Ethical Persuasion: From Conflict to Partnership at Work and in Private Life; NY: Viking Pub., 221 pp. (1993).

Author provides a method of communication for dispute resolution that leads toward increasing mutual understanding and resolving issues. Author analyzes the causes of communication break downs and discusses how his proposed method would work to overcome these in the work place and in one's private life.

SUBJ MATTER: GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES.

**Russell, Rowan.** "Impact of recent corporate collapses on negotiating and drafting syndicated loans". International Lawyer; June 22, 1993 (Summer); 27(2): pp. 397-427.

Article discusses recent corporate financial problems and their impact on structuring, negotiating, and drafting syndicated loans.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: USE OF AGENTS/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L/ 3RD PARTY: CONFLICT OF INTEREST/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ ETHICS: GENERAL.

**Rynders, Perrin.** "Confidentiality In Mediation: A conflict between two value systems" (Michigan) (Alternative Dispute Resolution). Michigan Bar Journal; October, 1993; 72(10): pp. 1016-18.

Article discusses confidentiality in mediation. Author argues confidentiality should be recognized as a fundamental aspect of mediation.



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MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ CONFIDENTIALITY/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE.

**Sachs, Andrea.** "Hurricane claims mediated: programs provide fast payments for Andrew's victims, but some prefer the courts". ABA Journal; May, 1993; 79: p. 33.

Short article describes the arbitration process made available to the victims of Hurricane Andrew. Author reviews the arbitration settlements of some of the victims and compares the satisfaction level among those who settled with the satisfaction level of those who used the traditional adversarial system.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INSURANCE.

**Salvatore, Paul.** "Rethinking Labour-Management Relations: The Case for Arbitration" (book review). Industrial and Labor Relations Review; April, 1993; 46(3): p. 582.

Article reviews a book which describes a model British compulsory arbitration system. The model system includes legislative incentives, stiff financial penalties, and favors arbitration over strikes and lockouts.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR.

**Sandole, Dennis J.D. and Hugo van der Merwe, eds..** Conflict Resolution Theory and Practice: Integration and Application, NY: St. Martin's Press; 298 pp. (1993).

Book focuses on theoretical and sociological aspects of conflict and resolution. One chapter of the book is dedicated to the importance of integrating conflict theory with ADR. Book provides an in-depth basis for understanding conflict and attempts to help practitioners resolve disputes more efficiently.

SUBJ MATTER: PUBLIC POLICY.

**Sarno, John J..** "International Commerce in New Jersey: Due process and the freedom of contract". Seton Hall Law Review; March 22, 1993 - Spring; 23(2): pp. 510-29.

Article provides a general overview of the resolution of international commercial disputes in an era of economic globalization. Author discusses the use of arbitration and conciliation, as well as problems concerning the involvement of state courts.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: STATUTORY OR RULES.

Sauter, Matthew J.. "Post-conviction Mediation of Rape Cases: Working within the criminal justice system to achieve well-rounded justice". Journal of Dispute Resolution; March 22, 1993 - Spring; 1993(1): pp. 175-92.

Article focuses on steps that can be taken within our criminal justice system to help change the attitudes of police, prosecutors, judges, jurors, and legislators toward rape. In particular, it focuses on how mediation can be used concurrently with the criminal court system in order to achieve justice for all parties involved.

MED: ENCOURAGING COMM AND NEG / SUBJ MATTER: CRIMINAL/ INST NATURE: JUSTICE SYSTEM-CRIM COURTS/ FAIRNESS.

Schavrien, Joel H.. "ADR: No longer the wave of the future". Michigan Bar Journal; October, 1993; 72(10): pp. 1008-10.

Article discusses how ADR methods have become integrated into the legal profession. Article examines an attorney's role in ADR. Author also believes Michigan should try a "Request for Judicial Intervention" model that would encourage the use of ADR practices.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: USE OF AGENTS/INST NATURE: JUSTICE SYSTEM-OTHER/ 3RD PARTY: PRACTICE OF LAW/ ROLE OF LAWYERS.

Schregle, Johannes. "Collective Bargaining and Workers' Participation: The position of the ILO". Comparative Labor Law Journal; June 22, 1993; 14(4): pp. 431-41.

Article traces the evolution of collective bargaining and workers' participation as they evolved through the International Labour Organization (ILO) while noting two trends in the work of the ILO. The first trend is an increased association between workers, their representatives and decision-making at the enterprise level. The second trend is that worker participation has begun to take on different forms in different countries and has become a controversial subject of comparative industrial relations.

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SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:  
INT'L/ COMPARISONS: HISTORICAL.

Schurke, Marvin L.. "Beyond Litigation: New approaches in state/local sector collective bargaining". Labor Law Journal; August, 1993; 44(8): pp. 464-69.

Article examines the preference the federal judicial, legislative, and executive branches have shown toward collective bargaining as the best procedure for resolving disputes at the workplace.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL.

Schwartz, Stanley J.. "Insubordination: A cardinal sin in the workplace". Labor Law Journal; December, 1993; 44(12): pp. 765-70.

Article defines and explains various forms of insubordination in the workplace. Insubordination generally carries with it the penalty of discharge although it is sometimes reduced by an arbitrator. Author concludes that if the employer has a thorough understanding of insubordination, the arbitrator is more likely to uphold the penalty.

ARB: MANDATORY, COURT-ANNEXED- GENERAL.

Schwartz, Steven L.. "International Computer Technology Transaction: Fundamental principles in negotiation and conflict management". Michigan Bar Journal; December, 1993; 72(12): pp. 1282-88.

Article discusses the necessity of becoming familiar with international law and other cultures in order to preserve intellectual proprietary rights and to negotiate international transactions. Lawyers must be careful to examine international business from an international perspective and not just by what is familiar to them.

NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER:

COMMERCIAL/ SUBJ MATTER: INT'L/ ROLE OF LAWYERS.

Scott, Clydie and Nicholas A. Beadles, II.. "Unit Placement Decisions in Acute Care Hospitals". Labor Law Journal; March, 1993; 44(3): pp. 143-52.

In 1989, the NLRB promulgated its first substantive rule which created eight standard collective bargaining units for acute care hospitals. The U.S. Supreme Court subsequently affirmed that the NLRB has the authority to formulate a substantive rule and determine its appropriateness in American Hosp. Ass'n v. NLRB. Author suggests that disputes will arise as to which

unit covers various employees and that the parties will use these disputes to delay elections.

SUBJ MATTER: HOSPITALS/ SUBJ MATTER: LABOR-MANAGEMENT(UNIONS)/ POWER IMBALANCE.

Scott, Clyde and Robert Culpepper. "Independent Contractors or Employees: The view from the National Labor Relations Board". Labor Law Journal; July, 1993; 44(7): pp. 395-407.

Article examines the NLRB's criteria for determining whether to classify a worker as an employee or independent contractor. Authors examine recent NLRB decisions addressing the issue and conclude that the NLRB consistently decides this question based on whether the employee has little or no control over the manner and means by which the results are to be accomplished.

SUBJ MATTER: LABOR-GENERAL.

Serventy, Natasha. "Dispute Resolution in Australia" (book review). Journal of Contract Law; March, 1993; 6(1): pp. 81-82.

Book emphasizes the theory and history of ADR and discusses ADR in the courts, ADR's effect on the legal profession, and current controversial issues in ADR. Such controversial issues include: mediator training, ethics, responsibility, and the mediation of family disputes.

COMPARISONS: CROSS-CULTURAL/ TYPE OF SOURCE: BOOK REVIEW.

Sewerynski, Michal. "Development of the Collective Bargaining System in Poland After the Second World War." Comparative Labor Law Journal; June 22, 1993 - Summer; 14(4): pp. 441-77.

Article discusses the history of collective bargaining in Poland and focuses on changes in the 1980's and problems that have arisen in the 1990's.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS: CROSS-CULTURAL.

Shackleton, Mary Eileen. "Corporate Partnering: Structuring and Negotiating Domestic and International Strategic Alliances" (book review). Legal Information Alert; May, 1993; 12(5): pp. 7-9.

Book provides a useful "roadmap" for corporate executives and lawyers who arrange joint ventures. It also contains model legal forms particularly useful for computers, software, and the pharmaceutical industry.

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SUBJ MATTER: CORPORATE/ TYPE OF SOURCE: BOOK REVIEW.

**Sharp, William L.** Collective Bargaining in the Public Schools, Madison, Wis.: Brown & Benchmark, 148 pp. (1993).

Book gives general overview of collective bargaining in the public school system. Author gives an historical background of collective bargaining before discussing negotiation techniques and strikes. Book contains practical advice including sample contract clauses and grievance letters.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

**Shelton, Frank.** "Changes to arbitration legislation" (Victoria). Law Institute Journal; August, 1993; 67(8): pp. 721-23.

Article discusses the nature of the amendments to Victoria's Commercial Arbitration Act and the reasons for the amendments.

SUBJ MATTER: INT'L/ LEGISLATION.

**Sheppard, Nigel.** "The Experience of Mediation - Australia Style". Family Law; August, 1993; 23: p. 494 / column 2.

Article briefly describes a speech given in London by an Australian solicitor and mediator, Susan Gribben. Her speech identified differences between the development and practice of mediation in the United Kingdom and Australia.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COMPARISONS: CROSS-CULTURAL/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL.

**Sherman, Edward F.** "Court-mandated Alternative Dispute Resolution: What form of participation should be required?". SMU Law Review; June 22, 1993 - Summer; 46(5): pp. 2079-112.

Author argues that in implementing mandatory ADR orders, court-imposed requirements as to participation should be carefully scrutinized to insure their compatability with the ADR process involved. Cautious use of a court's power to mandate the use of ADR is necessary both for public support of the assimilation of ADR into the litigation system and to insure compatability with the basic objectives of ADR.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ REQUIREMENTS: MANDATE TO USE.

Sholar, D. Todd. "Collaborative Law - A Method for Madness" (Legal Ethics Symposium). Memphis State University Law Review; March 22, 1993 - Spring; 23(3): pp. 667-85.

Article discusses an ADR method called "collaborative law" which attempts to increase the effectiveness of divorce law through direct party negotiation, while at the same time accounting for the "human element" inherent in such cases. Author describes basic concepts behind collaborative law, points out variances in the application of the concept, distinguishes and contrasts the collaborative approach from mediation, and examines the collaborative approach in light of the Model Code of Professional Responsibility.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/  
NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ MED:  
RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE  
SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC  
REL)/ ETHICS: GENERAL.

Siegal, Howard. "Proceed With Caution - Effective Negotiation of Entertainment Industry Contracts". Nevada Lawyer; September 22, 1993; 2(2): pp. 8-12.

Author discusses how to negotiate entertainment contracts more effectively by avoiding common pitfalls and shedding certain myths attendant to the negotiation process.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS,  
STRATEGIES AND TECHNIQUES-POWER/ NEG: TACTICS,  
STRATEGIES AND TECHNIQUES- OTHER/ NEG: CULTURAL  
CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ NEG: USE OF  
BARGAINING TEAMS/ NEG: USE OF AGENTS/ SUBJ MATTER:  
SPORTS & ENTERTAINMENT/ ETHICS: GENERAL.

Sigueiros, Jose Luis. "NAFTA Institutional Arrangements and Dispute Settlement Procedures". California Western International Law Journal; March 22, 1993 (Spring); 23(2): pp. 383-95.

Article examines dispute settlement procedures under NAFTA and compares them to the Free Trade Agreement (FTA) and GATT procedures. Article also discusses the authority of the trade commission NAFTA established to enforce panel decisions reached under prescribed dispute settlement procedures.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L.

**Simmons, Valerie P.** "Differentiated Case Management and ADR: A plan to reduce costs and delay in civil litigation". Michigan Bar Journal; October, 1993; 72(10): pp. 1010-15.

Author explains the Differentiated Case Management System, developed in the U.S. District Court for the Western District of Michigan, and the role ADR has within the system.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ REQUIREMENTS: MANDATE TO USE/ JUDICIAL PARTICIPATION.

**Simpson, Bob.** "Rethinking Labour-Management Relations: The Case for Arbitration" (book review). Modern Law Review; January, 1993; 56(1): pp. 123-25.

Book maintains that it is both possible and desirable to replace the strike-based system of collective bargaining with an arbitration-based system. Reviewer suggests the book may be criticized on several grounds: naivety, failure to show any sensitivity to the role law has played and can play in shaping the nature of industrial relations and failure to account for the varying experiences of different countries.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: BOOK REVIEW/ ARB: BINDING ARB- GENERAL.

**Simpson, John.** "O'Leary Outlines Policy Views at Confirmation Hearing" (Department of Energy Secretary Hazel R. O'Leary). Public Utilities Fortnightly; February 15, 1993; 131(4): pp. 39-41.

Author briefly describes the confirmation hearing of Department of Energy Secretary Hazel R. O'Leary. O'Leary was able to outline her own energy priorities while not responding decisively to questions concerning controversial issues.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T.

**Singer, David.** "Feller: We're still special" (David Feller, president of National Academy of Arbitrators). Arbitration Journal; September, 1993; 48(3): p. 6.

Interview with David Feller gives a brief look at his career and expresses Feller's opinion that labor arbitrators are an important resource.

ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL.

Sirman, John. "Texas CASA: Swamped with child welfare cases, courts turn to community volunteers". Texas Bar Journal; May, 1993; 56(5): pp. 490-91.

Article describes the successful use of a Court Appointed Special Advocate (CASA) in child abuse and neglect cases in the Texas courts. CASA interviews parties to a case and provides a detailed report to the judge. The CASA program has resulted in more informed judicial decisions, a reduction in the time spent by children in foster care, and savings to the state.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: TIMING/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ ECONOMIC ADVANTAGES OF ADR.

Skrainka, Stephen W.. "The Utility of Arbitration Agreements in Employment Manuals and Collective Bargaining Agreements for Resolving Civil Rights, Age, and ADA Claims". Saint Louis University Law Journal; June 22, 1993 - Summer; 37(4): pp. 985-1003.

Practical explanation of the role arbitration clauses play in collective bargaining agreements. Article focuses on the special situations to which an individual employee may be exposed and the ensuing advantages of arbitration. Author takes a pro-employer stance in his analysis.

ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ECONOMIC ADVANTAGES OF ADR.

Skratek, Sylvia. "Grievance Mediation: How to make the process work for you". Labor Law Journal; August, 1993; 44(8): pp. 507-11.

Article advocates the use of grievance mediation prior to arbitration. Some advantages of grievance mediation are that it offers open communication, high levels of trust, low levels of defensiveness, and avoids tactics of intimidation.

MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: LABOR-GENERAL.



**Skumanich, Nonna and Denise Lach.** "When Mediation Won't Work". Washington State Bar News; April, 1993; 47(4): pp. 19-25.

Authors review features of a dispute, disputant characteristics, and the mechanics of mediation which tend to result in unsuccessful negotiations. Mediation and environmental dispute resolution provide sources of information.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SELECTION OF APPROPRIATE PROCESS.

**Smallcombe, J..** "Procedural Differences Between Arbitral and Industrial Tribunal Settlements." (United Kingdom). Bracton Law Journal; January, 1993 (Annual); 25: 49-58.

Article discusses and compares procedures used by industrial and arbitration tribunals. Author discusses the choice of arbitrators, pre-hearing preparation, the hearing, awards, costs and appeals.

ARB: BINDING-ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: PREPARATION/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ ARB: JUDICIAL REVIEW.

**Smid, Stephen.** "The Expedited Procedure in Maritime and Commodity Arbitrations" (The 1993 Geneva Global Arbitration Forum). Journal of International Arbitration; December, 1993; 10(4): pp. 59-69.

Written adaptation of a speech examines methods used by international maritime and trade commodities arbitrators to put arbitration on a fast track. Article focuses on the differences between arbitration procedures created by business people and by attorneys.

ARB: DRAFTING ARB AGREEMENT/ ARB: SELECTION OF ARBITRATOR/ SUBJMATTER: INT'L/ AGREEMENT ON PROCEDURE/ SUBJ MATTER: COMMERCIAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SELECTION OF APPROPRIATE PROCESS/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: MARITIME/ ROLE OF LAWYERS/ CONFERENCE PROCEEDINGS.

**Smiley, Alison.** "Professional Codes and Neutral Lawyering: An emerging standard governing non-representational attorney mediation". Georgetown Journal of Legal Ethics; June 22, 1993-Summer; 7(1): pp. 213-46.

Article discusses the absence of provisions in the Model Code and the Model Rules pertaining to service by attorneys as neutral mediators and the resulting problems. Article provides an overview and advocates the use of neutral mediators. Article argues for the adoption of the ABA Section on Dispute Resolution's recommended amendment to the Model Rules.

ETHICS: GENERAL/ 3RD PARTY: PRACTICE OF LAW/ MED:  
RELATED PROCESSES-GENERAL.

**Smith, Carlton M..** "Innovative Settlement Techniques Can Reduce Litigation Costs". The Journal of Taxation; February, 1993; 78(2): pp. 76-80.

Author posits tax litigation has become progressively more expensive and suggests practitioners should be able to advise their clients of alternative means of resolving tax conflicts. The use of alternative dispute resolution techniques, such as voluntary arbitration, binding arbitration and mediation, has increased in the Tax Court in recent years. Such techniques should be utilized by practitioners.

SUBJ MATTER: TAX/ NEG: W/ OR W/O ASSIST OF 3D PARTY  
NEUTRAL-COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D-PARTY  
NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND  
TECHNIQUES-GENERAL/ ARB: BINDING/ ARB-GENERAL/  
ECONOMIC ADVANTAGES OF ADR.

**Smith, Michael J..** "Efficient Injustice: The demise of the 'substantial injustice' exception to arbitral finality." Journal of Dispute Resolution; March 22, 1993 - Spring; 1993(1): pp. 209-19.

Article criticizes a recent California Supreme Court ruling that an error of law on the face of an arbitration award which results in substantial injustice does not empower a court to vacate the award. Author suggests that the court's emphasis on finality, regardless of the cost, may discourage contractual obligations to arbitrate.

ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB:  
OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:  
SELECTION OF ARBITRATOR/ ARB: TRAINING AND  
QUALIFICATIONS OF ARBITRATOR/ ARB: CLIENT REP/ ARB:  
JUDICIAL REVIEW.

**Smith, Susan Kay.** "Industrial Relations in the Swedish Public Sector: Time for a different paradigm?". Journal of Collective Negotiations in the Public Sector; January, 1993 (Winter); 22(1): pp. 55-67.

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Article uses Kochran's Model as a framework to analyze the breakdown of Swedish industrial relations since the late 1970's.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SELECTION OF APPROPRIATE PROCESS.

**Speiser, Karen M.** "Labor Arbitration in Public Agencies: An unconstitutional delegation of power or the 'waking of a sleeping giant'". Journal of Dipute Resolution; September 22, 1993 - Fall; 1993(2): pp. 333-48.

Article addresses some of the issues involved in private arbitration of public agency labor disputes and provides an alternative to the decision in United Transportation Union v. Southern California Rapid Transit.

ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL.

**Spelfogel, Evan J.** "New Trends in the Arbitration of Employment Disputes". Arbitration Journal; March 22, 1993; 48(1): pp. 6-15.

Author provides an overview of the use of ADR to resolve employment disputes with special emphasis on the enforceability of arbitration agreements in employment contracts.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES.

**Spitzer, Hugh D.** "Caesar Would Have Arbitrated!". Washington State Bar Journal; April 1993; 47(4): pp. 50-52.

Article provides a brief overview of the role of Roman arbitrators during the reign of Caesar. Author argues that certain aspects of Roman arbitration merit modern consideration.

ARB: BINDING ARB- GENERAL/ COMPARISONS: HISTORICAL.

**Sponseller, Mark A.** "Redefining Arbitral Immunity: A proposed qualified immunity statute for arbitrators". Hastings Law Journal; January, 1993; 44(2): pp. 421-47.

Note advocates the enactment of statutes giving arbitrators qualified immunity. Author examines the history and justification for judicial and arbitral immunity and recommends setting aside arbitration awards as a remedy for arbitral misconduct.

ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/  
3RD PARTY: LIABILITY & IMMUNITY/ QUALITY CONTROL.

Srsic, Daniel W.. "Collective Bargaining by Physicians in the United States and Canada". Comparative Labor Law Journal; September 22, 1993 - Fall; 15(1): pp. 89-115.

Article considers the ongoing health care crisis in both the U.S. and Canada and the possibility of physicians utilizing strikes to protect their financial interests. Strikes have been used in the past, but author finds that U.S. physicians will ultimately choose a path of collective bargaining to limit the price they pay for insuring more people.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
USE OF BARGAINING TEAMS/ SUBJ MATTER: HOSPITALS.

St. Louis, Glen. "Keeping the Playing Field Level: The implications, effects, and application of the nonstatutory labor exemption of the 1994 National Basketball Association collective bargaining process". Detroit College of Law Review; September, 1993; 1993(3): pp. 1221-73.

Article discusses the competing legal principles involved in the interpretation of the labor exemption which has affected the issue of player consent to restraints and tilted the playing field in the NBA collective bargaining process.

SUBJ MATTER: SPORTS & ENTERTAINMENT.

Stahlhut, Eric H.J.. "Mission Impossible: The hollow promise of judicial review of mediation under the Railway Labor Act". University of Dayton Law Review; March 22, 1993 - Spring; 18(3): pp. 703-31.

Author examines why and how the courts must assume a more active role in the National Mediation Board's mediatory functions under the Railway Labor Act. Article reviews leading cases, critiques the rationale most often advanced by those who desire the judiciary to exercise limited review of mediator decision making, and concludes that compromise offers the best resolution to the problem.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY  
DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ INST

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NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-GENERAL/  
SUBJ MATTER: GOV'T/ LEGISLATION.

Stalhut, Eric H. J. "Playing the Trump Card: May an employer refuse to reasonably accommodate under the ADA by claiming a collective bargaining obligation?". The Labor Lawyer; January, 1993 - Winter; 9(1): pp. 71-96.

Author asserts that the language, legislative history, and public policy purpose of the ADA requires balancing competing interests when a term in a collective bargaining agreement conflicts with a disabled employee's request for accommodation. Courts should engage in an empirical evaluation of the interests at stake.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES.

"State and Local Government Bargaining". The Labor Lawyer; June 22, 1993 - Summer; 9(3): pp. 413-74.

Report to the ABA Section on Labor and Employment Law by the Committee on State and Local Government Bargaining discusses a broad array of issues including union member rights, constitutional concerns, the permissible scope of bargaining, interest arbitration, and state whistleblower laws.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Stephenson, Douglas A. Arbitration Practice in Construction Contracts; (1993).

Book discusses arbitration under English law with an emphasis on the building and construction industry. Particularly helpful are the sections which discuss the development of arbitration under English law and the practical issues of pleadings, extent of discovery, types of permissible evidence, and privileges. The appendix provides examples of documents, rules, and statistical tables that would be useful to an arbitration practitioner.

ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/  
ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/  
ARB:DRAFTING ARB AGREEMENT/ SUBJ MATTER:  
CONSTRUCTION/ SUBJ MATTER: INT'L/ ECONOMIC ADVANTAGES  
OF ADR.

Stephens, Elvis C.. "The Union's Duty of Fair Representation: Current examination and interpretation of standards". Labor Law Journal; November, 1993; 44(11): pp. 685-96.

Article examines a labor union's duty to fairly represent employees. Author concludes an examination of recent court decisions and legislative materials reveals more guidelines for determining whether the union has fulfilled its responsibility to fairly represent the employee.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Stipanovich, Thomas J.. "The Quiet Revolution Comes to Kentucky: A case study in community mediation." The Kentucky Law Journal; June 22, 1993 - Summer; 81(4): pp. 855-958.

Article gives a comprehensive discussion, from a practical perspective, of one of hundreds of mediation centers that have arisen across the country. Author discusses the background of the Mediation Center of Kentucky, practical aspects of the program, and efforts for changing our educational and legal communities so that they place emphasis on mediation as a dispute resolution technique.

MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ORGANIZATION POLICIES AND RULES.

Stone, Christopher R.. "Reinstating Union Contracts In Effect Upon Company's Prior Owner - Remedial or Punitive?" (1991-92 Annual Survey of Labor and Employment Law). Boston College Law Review; March, 1993; 34(2): pp. 369-79.

Author examines U.S. Marine Corp. v. NLRB at length and criticizes the Seventh Circuit's conclusion that reinstatement of the union's agreement with the prior owner was not improperly punitive.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Stone, Marvin L.. "Proposed Changes in Federal Evidence Rules". Journal of Accountancy; February, 1993; 175(2): pp. 83-86.

Article describes proposed changes in the Federal Rules of Evidence that could affect CPA's who serve as expert witnesses. The main recommendations contain changes to the expert testimony and disclosure rules. The changes are intended to streamline dispute resolution procedures.

COURT REFORM/ SUBPOENA AND DISCOVERY.

**Strating, Henricus A.** "The GATT Agricultural Dispute: A European perspective". North Carolina Journal of International Law and Commercial Regulation; January, 1993; 18(2): pp. 305-50.

Author explains why an agricultural trade agreement between the United States and the European Community has been so elusive. Article describes the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations and explains how the European Community's Common Agricultural Policy is in conflict with GATT. Author points out that some headway toward an agricultural trade agreement has been made, but that a trade dispute remains between the U.S. and France.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FARM/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L.

**Studness, Charles M.** "Range War: IPALCO's bid for PSI Resources" (IPALCO Enterprises Inc.). Public Utilities Fortnightly; April 15, 1993; 131(8): pp. 38-40.

Article analyzes IPALCO's attempt to achieve a hostile takeover of PSI Resources. While IPALCO hopes to preclude Cincinnati Gas & Electric's purchase of PSI, author suggests that a negotiated three-way merger could yield a stronger company.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: PUBLIC UTILITIES/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES.

**Stulberg, Joseph B.** "Training Intervenors for ADR Processes". Kentucky Law Journal; June 22, 1993 - Summer; 81(4): pp. 977-1011.

Article focuses on training persons to serve as intervenors in the process of alternative dispute resolution, particularly mediation. Author provides a survey of the development of training techniques and standard qualifications for intervenors.

ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR.

**Sullivan, Daniel S.** "Effective International Dispute Settlement Mechanisms and the Necessary Condition of Liberal Democracy". Georgetown Law Journal; July, 1993; 81(6): pp. 2369-424.

Author examines what he believes is the crucial intersection of two global trends: the increased use of "formal dispute settlement mechanisms based on legal principles" ("DSM") and the rise of liberal democracy. Author presents evidence to support his thesis that the success of the former is entirely dependent upon the latter by examining three DSM's that have worked and three that have not. Author examines the debate over the North American Free Trade Agreement in light of his thesis.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L.

**Sulzner, George T.** "The Public Service Staff Relations Board of Canada: A study of organizational evolution". Journal of Collective Negotiations in the Public Sector; September 22, 1993 - Fall; 22(4): pp. 277-95.

Article analyzes the history of the Public Sector Staff Relations Board, created under the Public Service Staff Relations Act, which governs labor-management relations in the Canadian government.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

**Summers, Clyde W.** "The Trilogy and Its Offspring Revisited: It's a contract, stupid" (Steelworkers Trilogy). Washington University Law Quarterly; December 22, 1993; 71(4): pp. 1021-59.

Article defines the role of the judiciary in enforcing the arbitration provisions within collective agreements. Author details the role of the court at both pre-arbitration stage and post-arbitration stages. Author notes the struggle courts face when determining whether to vacate or to enforce an arbitral award.

NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/  
ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:  
JUDICIAL REVIEW.

"Supreme Court Limits RICO". (Reves v. Ernst & Young). Journal of Accountancy; May, 1993; 175(5): p. 24.

The U.S. Supreme Court limited the application of the Racketeer-Influenced Corrupt Organizations Act (RICO) to accounting firms in Reves v. Ernst & Young. The ruling stated that an accounting firm must be involved in business' management to be sued under the act. Under the new test, RICO claims against accounting firms will be subject to pretrial dismissal by summary judgement, absent a showing that a factual dispute exists about whether the firm was involved in managing the business.



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NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: REGULATORY/ SETTLEMENT: PRESSURES O SETTLE.

**Talevski, Gordana.** "Problems and Principles for Conflict Resolution in the Area of Post-separation Conflict." (Australia). Australian Dispute Resolution Journal; February, 1993; 4(1): pp. 75-84.

Author examines complex issues in post-separation or divorce mediation and offers practical advice for facilitating resolution in the midst of emotional, social, legal, economic, parental, and psychological obstacles.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: COUNSELING/ MED: PSYCH FACTORS/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ROLE OF LAWYERS/ DISPUTE PREVENTION.

**Thomas, Carol-Teigue J..** "Gilmer v. Interstate/Johnson Lane Corporation: When is an employee's right to a judicial forum precluded by an arbitration agreement?". New England Law Review; March 22, 1993 - Spring; 27(3): pp. 791-823.

Author criticizes a United States Supreme Court decision as an example of the judicial preference for arbitration triumphing over Congressional intent. Through the enactment of the Federal Arbitration Act, Congress intended to prevent employers from making arbitration agreements a condition of employment contracts.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES.

**Thomas, Todd H..** "Using Arbitration to Avoid Litigation". Labor Law Journal; January, 1993; 44(1): pp. 3-17.

Article reviews the history of arbitration, including its development within and outside the context of collective bargaining, and its application to disputes over statutory rights.

ARB: MANDATORY, COURT-ANNEXED- GENERAL.

**Thorn, Terry and Bruce Stram.** "Beyond Regulation: A 'social compact' for gas and electricity". Public Utilities Fortnightly; March 1, 1993; 131(5): pp 19-23.

Authors contrast traditional utilities regulation with the "social compact" approach and suggest that the latter is a more efficient way to maximize consumer and public utility company benefits.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: PUBLIC UTILITIES.

**Thornicroft, Kenneth W..** "Lawyers and Collective Bargaining in the Canadian Public Sector". Journal of Collective Negotiations in the Public Sector; March 22, 1993 - Spring; 22(2): pp. 137-49.

Author examines the nine common law provinces of Canada and uses recent developments within them to identify possible causes for the growth in the use of collective bargaining by Canadian legal professionals.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ COMPARISONS: HISTORICAL/ ROLE OF LAWYERS.

**Tidewell, Alan C..** "Conflict, Pragmatism and Organizational Conflict: A commentary. Australian Dispute Resolution Journal; February, 1993; 4(1): pp. 43-52.

Article reviews the "intervention approach". The intervention approach is based on theory-grounded pragmatism and it is used for resolving conflicts. Article specifically reflects observations made by the author concerning the effective resolution of a real-life conflicts while serving in a governmental department office.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: GOV'T ENTITIES.

**Tidewell, Alan C..** "Dispute Resolution: Negotiation, Mediation and Other Processes" (book review). Australian Dispute Resolution Journal; May, 1993; 4(2): pp. 163-65.

Second edition of the book includes an impressive and comprehensive collection of materials in several ADR areas. Reviewer concludes that the book provides an excellent starting point for examining the fields of negotiation, mediation, and arbitration.

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INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW.

Tien, Wendy S.. "Compulsory Arbitration of ADA Claims: Disabling the disabled". Minnesota Law Review; June, 1993; 77(6): pp. 1443-76.

Article examines the ADA's arbitration provision in the context of the FAA, legislative history, and public policy. Author asserts that arbitration under the ADA should be strictly voluntary as the FAA does not authorize compulsory arbitration for "contracts of employment".

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ LEGISLATION.

Tjosvold, Dean. Learning To Manage Conflict: Getting People to Work Together Productively. NY: Maxwell Macmillan International, 171 pp. (1993).

Author seeks to educate readers on how to handle conflicts in a positive long-term manner rather than through typical short-term crisis management mechanisms. Author addresses personal, work-related, and family conflicts.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: PSYCH CONSIDERATIONS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Tomain, Joseph P.. "Four Failures of the Political Economy". Tulane Environmental Law Journal; June 14, 1993 - Winter; 6(1): pp. 1-20.

Article discusses the political, economic, constitutional, and legal failures of the political economy in the area of environmental regulation. Article evaluates effects of the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act on environmental regulation.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: REGULATORY.

Tractenberg, Paul L.. "Is Advice About ADR an Ethical Duty?". New Jersey Law Journal; August 16, 1993; 134(16): pp. S12- S17.

Author discusses the ethical considerations of providing ADR advice to clients in the context of New Jersey Court Rule 1: 40. The Rule encourages attorneys to become familiar with and inform their clients about dispute resolution programs. Author argues that this rule creates an obligation for lawyers to inform themselves about ADR techniques.

INST NATURE: JUSTICE SYSTEM- GENERAL/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ ETHICS: GENERAL/ ROLE OF LAWYERS.

"Trustees' ERISA Claims Against Broker Must Be Arbitrated, Third Circuit Rules". Tax Management Financial Planning Journal; December 21, 1993; 9(12): pp. 446-47.

The Third Circuit Court in Pritzkes v. Merrill Lynch (10/15/93) overruled its previous decision and determined that mandatory arbitration applies to ERISA.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ JUDICIAL PARTICIPATION.

Tschanz, Pierre Yves. "The Chamber of Commerce and Industry of Geneva's Arbitration Rules and Their Expedited Procedure" (The 1993 Geneva Global Arbitration Forum). Journal of International Arbitration; December, 1993; 10(4): pp. 51-57.

Author identifies three key differences between the CCIG's ordinary arbitration procedure and their expedited arbitration procedure. Author suggests that expedited arbitration is a quicker but riskier procedure and that its use is growing in the international arbitration arena.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ SELECTION OF APPROPRIATE PROCESS.

Turro, John. "Kazakhstan Negotiating to Develop Oil - And Taxes Are on The Table". Tax Notes International; May 31, 1993; 6(22): pp. 1304-06.

Author states that Kazakhstan is the best place for western businesses to invest their dollars due to their willingness to negotiate with foreign businesses. Several international oil companies are taking advantage of it as an investment opportunity, which could make Kazakhstan one of the world's top 10 oil producers.

SUBJ MATTER: INT'L/ SUBJ MATTER: TAX/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Turro, John. "U.S. Tax Concerns Threaten Final GATT Talks". Tax Notes; December 6, 1993; 61(10): pp. 1151-52.

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Article addresses the issue of whether U.S. tax laws should be pre-empted by the new international trade rules created by GATT.

SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: TAX.

Twining, William. "Alternative to What? Theories of Litigation, Procedure, and Dispute Settlement in Anglo-American Jurisprudence: Some neglected classics". Modern Law Review; May, 1993; 56(3): pp. 380 - 92.

Author suggests that the main parts of the U.S. theoretical heritage that are seen as relevant to dispute settlement are largely outside the mainstream of jurisprudence. Article focuses on literature and thinkers that help bridge the gap between sociological theory and orthodox legal scholarship.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ JUDICIAL PARTICIPATION/ SUBJ MATTER: GENERAL.

Tyagi, Yogesh K.. "Towards UNCLOS IV?" (United Nations Convention on the Law of the Sea). Journal of World Trade; February, 1993; 27(1): pp. 143-54.

The United Nations Convention on the Law of the Sea governs seabed mining. Author advocates that any change in the convention regime should be made only through a democratic process, not through secret or informal negotiations.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L.

"U.S. Model Income Tax Treaty". Tax Executive; January, 1993; 45(1): pp. 66-71.

The Tax Executive Institute (TEI) has made its suggestions to the United States Treasury Department for a U.S. Model Income Tax Treaty. Among other provisions, TEI recommends that the United States, in its bilateral tax negotiations, seek a provision requiring that the parties submit to binding arbitration in the event they are unable to agree.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: TAX.

Ulmer, Nicholas C.. "The Gulf War Claims Institution" (United Nations Compensation Commission). Journal of International Arbitration; March, 1993; 10(1): pp. 85-93.

Article examines the process designed by the United Nations to cope with personal injury and property loss claims generated by the Gulf War. Particular attention is given to the impact of political forces on the Claim Institution's tripartite design.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: TOXIC TORTS/ COMPARISONS: CROSS-CULTURAL.

**Upton, Michael.** "ADR in Perspective". (Scotland). Scots Law Times; March 5, 1993; (10): pp. 75-81.

A brief, practical evaluation of selected issues and concepts in ADR. Topics include mediation, mini-trials, summary jury trials, private judging, privilege, and ADR and the criminal courts. Author relies on Scottish authority with some comparisons to the American system.

MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC-MINI-TRIAL/ SUBJ MATTER: INT'L.

**Ury, William.** Getting Past No: Negotiating Your Way From Confrontation To Cooperation, NY: Bantam Books 189 pp. (1993):

Author of this book discusses joint problem solving techniques as a method for overcoming identified barriers to cooperation in the negotiation of issues in a broad range of contexts from family to conflicts on the job. This book approximates a self help guide, but may be informative in identifying conflicts to resolution and strategies for overcoming them.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

**Van Den Berg, A. J., R. Van Delden, H.J. Snijders and B. Ruijsenaars** (translator). Netherlands Arbitration Law, Boston: Kluwer Law and Taxation Publishers, 293 pp. (1993).

Intended as a guidebook for the study and practice of arbitration. It is an amalgam of the authors' experiences and it offers practical advice and insight into diverse areas, including international arbitration law. Book's primary focus, though, is on arbitration law in the Netherlands and it explores the history of the subject as well as pertinent arbitration statutes.

## 1993 BIBLIOGRAPHY

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING  
ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT  
TO ARB/ ARB: SELECTION OF ARBITRATOR/ INST NATURE:  
GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L.

**Van Epps, Douglas A.** "Community Dispute Resolution: The right place for the wrong case". (Michigan) (Alternative Dispute Resolution). Michigan Bar Journal; October, 1993; 72(10): pp. 1026-29.

Article briefly explains the merits and applications of Michigan's Community Dispute Resolution Program.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/  
MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY  
DIALOGUE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/  
SUBJ MATTER: GENERAL/ REQUIREMENTS: STATUTORY OR  
RULES/ LEGISLATION.

**Van Hook, Evan.** "Conservation Through Cooperation: The collaborative planning process for utility conservation and load management". Yale Law Journal; March, 1993; 102(5): pp. 1235-63.

Note analyzes the "collaborative planning process", a procedure which attempts to resolve problems in utility conservation and load management with alternative dispute resolution methods. Article advocates reforms to make the program more efficient, accessible, and protective of the public interest.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG:  
TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ  
MATTER: ENVIRONMENT/ SUBJ MATTER: PUBLIC UTILITIES/  
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ EFFECT OF  
PROCESS ON NON-PARTICIPATORY PARTIES/ SELECTION OF  
APPROPRIATE PROCESS/ECONOMIC ADVANTAGES OF ADR/ INST  
NATURE: GOV'T ENTITIES/ INST NATURE: SECULAR, PRIVATE,  
NON-PROFIT/ INST NATURE: PRIVATE, PROFIT-MAKING.

**Vause, W. Gary.** "Symposium Overview - 1993 Critical Issues in Labor and Employment Law". Stetson Law Review; September 22, 1993 - Fall; 23(1): pp. 3-10.

Brief overview provides introductory highlights of symposium articles. It discusses the relationship among the individual employment relationship, collective bargaining, and workplace equality.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL.

Veglahn, Peter A.. "Key Issues in Performance Appraisal Challenges: Evidence from court and arbitration decisions". Labor Law Journal; October, 1993; 44(10): pp. 595-606.

Author examines the performance appraisal systems most companies utilize to evaluate employee performance and other employment characteristics. Author finds that challenges to performance appraisal decisions are poorly handled by both courts and arbitrators. Author claims courts and arbitrators lack a necessary understanding of the performance appraisal process and are therefore unable to render competent appraisals.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: LABOR-GENERAL.

Vernon, John M.. "Mexico's Accession to the GATT: A catalyst at odds with outcome?". St. Mary's Law Journal; January, 1993 - Winter; 24(3): pp. 717-35.

Article provides a thorough discussion of Mexico's accession to the General Agreement on Tariffs and Trade in 1987. Article also analyzes the transition to and effect of NAFTA on the economy of Mexico.

LEGISLATION/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

Viechtbauer, Volker. "Arbitration in Russia". Stanford Journal of International Law; June 22, 1993 - Summer; 29(2): pp. 355-457.

Author discusses how dispute resolution aids Russian foreign trade and details the impact arbitration has on the international community. Article further details methods that should be employed in order to help parties who choose alternative procedures on the international level.

ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ NEG: CULTURAL CONSIDERATIONS.

Vieira, Edwin Jr.. "Lehnert v. Ferris Faculty Association: The U.S. Supreme Court hands out another stone instead of a fish". Government Union Review; April, 1993 - Winter; 14(1): pp. 1-36.

Article discusses problems associated with compulsory collective bargaining for non-union employees and the Supreme Court's failure to deal with these problems.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ



## 1993 BIBLIOGRAPHY

MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:  
EMPLOYMENT (NON-UNIONS).

**Wagoner, David E..** "Tailoring the ADR Clause in International Contracts". Arbitration Journal; June, 1993; 48(2): pp. 77-82.

Author argues that when entering into an international contract, wise negotiators tailor an ADR clause to meet their needs should disputes arise. Certain provisions must be carefully drafted: locale, procedures, qualifications of neutrals, choice of law, scope of issues covered, discovery, and enforcement.

ARB: SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS.

**Wainscott, Edwin B. and Douglas W. Holly.** "Zlaket Rules and Alternative Dispute Resolution" (Mandating Disclosure and Limiting Discovery: The 1992 Amendments to Arizona's Rules of Civil Procedure and Comparable Federal Proposals). Arizona State Law Journal; March 22, 1993 - Spring; 25(1): pp. 195-235.

Article discusses some of the benefits and mechanics of alternative dispute resolution as well as the impact of the 1992 amendments to Arizona's Rules of Civil Procedure on the use of alternative dispute resolution within the state.

MED: RELATED PROCESSES-GENERAL/ LEGISLATION.

**Walther, Robert G..** "The Judge's Role in Resolving Disputes". Georgia State Bar Journal; May 1993; 29(4): p. 244.

Article offers a judge's view of criminal, civil, and domestic cases. Author suggests innovations like alternative dispute resolution and expanded court services may help to facilitate a more responsive judicial system.

INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/COMPARISONS: HISTORICAL/ COURT REFORM/ JUDICIAL PARTICIPATION.

Ward, David M.. "The Scope of Binding Arbitration Agreements in Contracts for Medical Services". Ohio State Journal on Dispute Resolution; March 22, 1993 - Spring; 8(2): pp. 361-84.

Article presents a discussion on the affect binding arbitration agreements have on medical services and analyzes whether these provisions should be held to bind non-signators. In particluar, author focuses on Bolanos v. Khalitian which addressed the aforementioned issues.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: MEDICAL MALPRACTICE/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Ward, Robert F.. "Judicial Review of Arbitration Awards: Policy at odds with practice" . Illinois Bar Journal; July, 1993; 81(7): pp. 358-62.

Article discusses the judicial review of arbitration within the context of administrative acts. It also discusses how different agreements, legislation (in particular, the Uniform Arbitration Act), and regulations impact judicial review.

ARB: JUDICIAL REVIEW/ LEGISLATION.

Ware, John P.. "Consolidating Arbitrations in the Federal Courts". Ohio State Journal on Dispute Resolution; March 22, 1993 - Spring; 8(2): pp. 457-70.

Article evaluates the legitimacy of a court-ordered consolidation of disputes arising out of the same law and facts in light of the FAA's silence on the consolidation issue. Author concludes that unless legislative action gives courts the ability to consolidate arbitrations, they cannot do so if consolidation provisions are not contained in the arbitration agreement.

INST NATURE: JUSTICE SYSTEM- GENERAL.

Watkins, Linda. "Neighbors Helping Neighbors". Advocate (Idaho); August, 1993; 36(8): pp. 29-31.

Article discusses two volunteer mediation programs currently in place in the state of Idaho: Sounding Board (a program in which trained volunteers provide free mediation services for neighborhood disputes) and Helping Hand (a program designed to address the issues of homelessness prevention). Training is available and there are no pre-requisites for participation in either program.

## 1993 BIBLIOGRAPHY

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST  
NATURE: SECULAR, PRIVATE, NON-PROFIT/ 3RD PARTY:  
VOLUNTEER OF LAY PERSONS.

Weber, Louis J., Jr.. "Court-referred ADR and the Lawyer-mediator: In service of whom?". SMU Law Review; June 22, 1993 - Summer; 46(5): pp. 2113-16.

Article discusses the lawyer's role in the ADR movement. Author argues that lawyers have an obligation to provide a more efficient way to settle disputes rather than to merely make money on new ADR mechanisms.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ROLE OF LAWYERS.

Westerfield, Rebecca. "An ADR Menu: Choosing the best process for the case". Kentucky Bench and Bar; September 22, 1993; 57(4): pp. 31-33.

Author gives a brief description of several ADR methods, including: mediation, arbitration, medical arbitration, early neutral evaluation, neutral experts, and the mini-trial to enable mediations to compare and contrast varying ADR processes.

MED: RELATED PROCESSES- GENERAL/ NON-BINDING  
RECOMMENDATION PROC- GENERAL/ NON-BINDING  
RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING  
RECOMMENDATION PROC- SUMMARY JURY TRIAL/ NON-  
BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/  
ARB: BINDING ARB- GENERAL/ AGREEMENT ON PROCEDURE.

Wheeler, Joanne and Margaret Ross. "The Role of the Non-lawyer in Criminal Justice: Reparation and mediation". (Scotland). Scots Law Times; December 3, 1993; (39): pp. 365-67.

Article offers a basic account of the role of mediation as an alternative to prosecution, the responses of victims and offenders, and introduces readers to the Aberdeen Reparation and Mediation Project.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: CRIMINAL/  
3RD PARTY: NEUTRALITY/ ROLE OF LAWYERS.

White, N.D.. Keeping the Peace: The United Nations and the Maintenance of International Peace and Security. NY: St. Martin's Press, 267 pp. (1993). Author discusses the U.N. Charter and its impact on relations between countries. Author also discusses its affect on international relations among

conflicting states as well as those with numerous contacts. The current state of foreign policy among member nations as well as the future of international relations is discussed.

SUBJ MATTER: INT'L/ SUBJ MATTER: GOV'T.

Whitelaw, Brian W. "Health Care Arbitration in Michigan: An effective method of alternative dispute resolution". Michigan Bar Journal; November, 1993; 72(11): pp. 1158-63.

Article examines the Michigan legislature's attempt at tort reform by using arbitration in medical malpractice cases. Author discusses the ramifications of implementing arbitration and concludes that virtually no one in Michigan will use it as a means of resolving tort malpractice disputes.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: MEDICAL MALPRACTICE/ LEGISLATION.

Wierner, Jacques. "ADR: Will European brains be set on fire?". Journal of International Arbitration; December, 1993; 10(4): pp. 45-47.

Article describes the relatively "cool" European reaction to the American ADR concept. Author explains that many Europeans believe that ADR is simply a variation of the conciliation and mediation methods that they already employ.

SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

Wiley, Carolyn. "A Historical Look at the Effect of Collective Bargaining on Faculty Salaries in California Community Colleges". Journal of Collective Negotiations in the Public Sector; March 22, 1993 (Spring); 22(2): pp. 157-72.

Research is predicated on a historical inquiry into the faculty salary determination processes used in the California community college system before and after collective bargaining legislation was passed in 1975. Article questions whether measureable differences in unionization lead to measureable differences in faculty salary over five and seven-year periods. Study considers other factors which may affect faculty salaries.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION.

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**Wilk, Michael S.** "ADR with the RTC and the FDIC". The Practical Real Estate Lawyer; May, 1993; 9(3): pp.27-42.

Author describes alternative dispute resolution as an effective and important tool for resolving controversies that are pending at the time a financial institution fails or that may later arise.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/  
MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-  
GENERAL/ ARB: SELECTION OF ARBITRATOR.

**Wilkinson, John.** "Dispute Resolution: Negotiation, Mediation, and Other Processes", 2d ed., (book review). Arbitration Journal; March 1993; 48(1): p. 88.

Article is a book review of an ADR treatise. Author praises the book, saying that it comprehensively reassesses all aspects of ADR and identifies and discusses what is on the cutting edge of ADR.

TYPE OF SOURCE: BOOK REVIEW.

**Williams, Andrea.** "AAA's Sexual Harassment Claims Resolution Process". (American Arbitration Association). Colorado Lawyer; June, 1993; 22(6): pp. 1217-21.

Author explains and evaluates the American Arbitration Association's Model Sexual Harassment Claims Process. It is designed for use in the workplace. Article discusses the role of mediation and arbitration in the model process.

MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-  
GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION.

**Wilson, Denise.** "Alternative Dispute Resolution". Auckland University Law Review; January, 1993; 7(2): pp. 362-80.

Article examines recent changes in the use of mediation and other forms of ADR in the Family Court and the Employment Tribunal of New Zealand. Author compares the use of mediation in each in an attempt to demonstrate how ADR has become more prevalent as a result of free market principles and public demand.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:  
FAMILY (DOMESTIC REL)/ SUBJ MATTER: LABOR-GENERAL/  
COMPARISONS: CROSS-CULTURAL.

**Wilson, Michael.** "Insurance Ombudsman's Report" (United Kingdom). Solicitors Journal; March 19, 1993; 137(10): p. 258.

Overview of selected highlights to the 1992 United Kingdom insurance ombudsman's report. Author describes a series of unusual insurance claims settled by ombudsmen.

SUBJ MATTER: INSURANCE/ SUBJ MATTER: INT'L/ OMBUDSPERSON.

**Wishnick, Yale S. and Kathleen T.** "Collective Bargaining and Educational Reform: Establishing a labor-management partnership". Journal of Collective Negotiations in the Public Sector; 22(1): pp. 1-11.

Article presents a case study of a Sacramento school district which successfully implemented an interest-based, problem-solving partnership in its labor dispute. Author describes the construction of the interest-based method and argues its merits as a better opportunity for dispute resolution than the traditional adversarial collective bargaining model.

SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL/  
TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/  
COMPARISONS: HISTORICAL/ SELECTION OF APPROPRIATE  
PROCESS.

**Wollett, Donald H., Joseph R. Grodin and June M. Weisberger.** Collective Bargaining in Public Employment; St. Paul, Minn.: West Pub. Co., 418 pp. (1993).

Legal casebook discusses labor in public employment. Book discusses theoretical and practical issues which arise in this area, using various state statutes and case law to illustrate. Authors examine the differences between the public and private sector which might justify modification of private sector principles.

ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/  
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION/  
ROLE OF LAWYERS/ SUBJ MATTER: EDUCATION/  
CONFIDENTIALITY/ TEACHING/ REQUIREMENTS: CONTRACTUAL  
CLAUSES/ SUBJ MATTER: PUBLIC POLICY/ INST NATURE:  
JUSTICE SYSTEM- GENERAL.

**Wright, Lisa A.** "Religious Officials as Marital Counselors in Court-connected Conciliation: Are there First Amendment concerns?". Ohio State Journal on Dispute Resolution; March 22, 1993 - Spring; 8(2): pp. 471-88.

## 1993 BIBLIOGRAPHY

Author discusses conciliation statutes enacted by numerous state legislatures, the role that religious officials play in conciliation statutes, and the constitutionality of conciliation statutes. Author concludes that the religious referral provisions are constitutional in light of recent case law and policy interests.

INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ DISPUTE PREVENTION/ MED: COUNSELING.

Ya Qin. "China and GATT: Accession instead of resumption". Journal of World Trade (Law-Economics-Public Policy); April, 1993; 27(2): pp. 77-98. Author suggests that China's membership in GATT is not a question of government representation, but rather raises a question as to treaty application. The validity of China's original contracting party status has been brought into question by the non-application of GATT to treaties between China and other contracting parties for a period of more than 40 years.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ COMPARISONS: CROSS-CULTURAL.

Yeend, Nancy. "Patent Alternative Dispute Resolution Handbook" (book review). Santa Clara Computer and High-Technology Law Journal; March, 1993; 9(1): pp. 397-401.

Author considers the book to be primarily an arbitration handbook rather than an alternative dispute resolution handbook. Reviewer further finds that because of the book's weaknesses, Tom Arnold's earlier article, found in 9 AIPLA Selected Legal Papers 1 (1991), provides as much substance as his book.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ TYPE OF SOURCE: BOOK REVIEW.

Young, Patricia G. and Kristie Browning. "Mediation and the Family Courts". Advocate (Idaho); August, 1993; 36(8): pp. 22-24.

Article provides an overview of the various preliminary measures that the state of Idaho utilizes before a judge allows a divorce proceeding in court for a contested hearing. Some of these measures include parent education

workshops, mediation, and mandatory parent orientation for those seeking a divorce.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

**Young, Richard.** "Making Amends: Mediation and Reparation in Criminal Justice" (book review). Anglo-American Law Review; July, 1993; 22(3): pp.411-20.

Book attempts to provide complete coverage of the use of reparations and mediation in the United Kingdom criminal justice system. Guest writers from Germany and the U.S. contribute chapters to the book concerning programs in their countries.

TYPE OF SOURCE: BOOK REVIEW/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS- CULTURAL/ COMPARISONS: HISTORICAL.

**Zedner, Lucia.** "Making Amends: Mediation and Reparation in Criminal Justice" (book review). Modern Law Review; November, 1993; 56(6): pp. 910-11.

Book review praises the book's description of both the popularity and shortcomings of criminal offender-victim mediation and victim reparation programs in the United Kingdom. Reviewer disagrees, however, with the author's conclusion that such "reparative justice" has exhausted its political support.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL.

**Zeidner, Rita L.** "Automated Underreporter Program Delayed by Contract Disputes". Tax Notes; April 19, 1993; 59(3): pp. 317-18.

The automated underreporter program (AUP) is a new program initiated by the IRS to aid in the identification of taxpayers who underreport income. The implementation of AUP has been delayed due to major contract disputes and inadequate personnel training.



## **1993 BIBLIOGRAPHY**

**SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: TAX/ TYPE  
OF SOURCE: CASE STUDY/ RESEARCH REPORT.**

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